

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

INGLEWOOD UNIFIED SCHOOL
DISTRICT; INNER CITY EDUCATION
FOUNDATION PUBLIC SCHOOLS, AND
WILDER'S PREPARATORY ACADEMY
CHARTER SCHOOL

OAH Case No. 2015080466

ORDER DENYING DISTRICT'S
MOTION TO DISMISS AS MOOT AND
GRANTING STUDENT'S MOTION TO
AMEND

On September 29, 2015, Inglewood Unified School District filed a Motion to Dismiss, on the grounds that it was not the public agency responsible for Student's education, and had not provided any educational services to Student. Student filed no opposition to the Motion to Dismiss. Instead, on October 5, 2015, Student filed a Motion for Leave to Amend his Complaint. The proposed Amended Complaint purposefully omits Inglewood as a party to the action, clarifies certain other allegations in the original Complaint, and adds Los Angeles Unified School District as a party to the action. On October 9, 2015, respondents Inner City Education Foundation Public Schools and Wilder's Preparatory Academy Charter School jointly filed a response to the Motion to Amend, stating that they did not object to the addition of Los Angeles Unified as a party, or to the dismissal of Inglewood.

DISCUSSION

A party may amend the due process complaint if the other party consents in writing to such amendment and is given the opportunity to resolve the complaint through a resolution meeting, or if the hearing officer grants permission at any time no later than five days before a due process hearing occurs. (20 U.S.C. § 1415(c)(2)(E)(i).) The filing of an amended complaint restarts the applicable timelines for the due process hearing. (20 U.S.C. §1415(c)(2)(E)(ii).) Inner City's and Wilder Preparatory's response to the Student's motion did not state that they consented to the Motion to Amend; it merely stated that they did not object to portions of the proposed Amended Complaint. Therefore, their response to the Motion to Amend does not constitute written consent to the Motion, as contemplated by the statute. Instead, OAH must rule on whether the Motion to Amend should be granted.

Student's Motion to Amend is timely and is granted, as the currently scheduled hearing date of November 9, 2015, is in excess of five days from the date of this Order.

Since the Amended Complaint does not name Inglewood as a respondent, District's Motion to Dismiss is denied as moot.

ORDER

1. Student's Motion to Amend is granted. The Amended Complaint shall be deemed filed on the date of this Order. All previously set dates are vacated, and all applicable timelines shall be reset as of the date of this Order. OAH will issue a scheduling order with the new dates.

2. District's Motion to Dismiss is denied, as it is moot.

IT IS SO ORDERED.

DATE: October 9, 2015

/s/

ELSA H. JONES
Administrative Law Judge
Office of Administrative Hearings