

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOLETA UNION ELEMENTARY
SCHOOL DISTRICT AND HUMBOLDT-
DEL NORTE SPECIAL EDUCATION
LOCAL PLAN AREA.

OAH Case No. 2015090789

ORDER GRANTING MOTION TO
AMEND COMPLAINT; DENYING
MOTION TO DISMISS COMPLAINT;
AND DENYING MOTION TO
DISMISS PARTY

On September 11, 2015, Student filed a Due Process Hearing Request, naming Loleta Union Elementary School District and Humboldt-Del Norte Special Education Local Plan Area. This matter is currently set for hearing beginning November 5, 2015. On September 22, 2015, Loleta and Humboldt-Del Norte filed a Motion to Dismiss the complaint to the extent it raises issues beyond the statute of limitations and issues beyond the jurisdiction of the Office of Administrative Hearings. Also on September 22, 2015, Loleta and Humboldt-Del Norte filed a Motion to Dismiss Humboldt-Del Norte as a party. On September 24, 2015, OAH granted Student's request for an extension of time to September 30, 2015, to respond to the motions to dismiss. On September 29, 2015, Student filed a Motion to Amend the Due Process Hearing Request along with an amended complaint. No opposition was received from Loleta or Humboldt-Del Norte.

APPLICABLE LAW

An amended complaint may be filed when either (a) the other party consents in writing and is given the opportunity to resolve the complaint through a resolution session, or (b) the hearing officer grants permission, provided the hearing officer may grant such permission at any time more than five (5) days prior to the due process hearing. (20 U.S.C. §1415(c)(2)(E)(i).)¹ The filing of an amended complaint restarts the applicable timelines for the due process hearing. (20 U.S.C. §1415(c)(2)(E)(ii).)

¹ All statutory citations are to title 20 United States Code unless otherwise indicated.

DISCUSSION

Student seeks to amend his original Issues Five and Six to include the allegation that Humboldt-Del Norte's failure to maintain a continuum of placement options for elementary students with emotional disturbances, and Loleta's and Humboldt-Del Norte's practices of referring students for a mental health assessment instead of providing an assessment plan each denied Student a free appropriate public education. Student's amended complaint includes additional supporting facts and further allegations of Humboldt-Del Norte's involvement. The motion to amend is timely and is granted.

Motions to Dismiss Complaint and to Dismiss a Party

Loleta and Humboldt-Del Norte's motions to dismiss Student's complaint and to dismiss Humboldt-Del Norte as a party are denied as moot, given this order granting Student's motion to file an amended complaint.

ORDER

1. Student's motion to amend is granted. The amended complaint shall be deemed filed on the date of this order.
2. All applicable timelines shall be reset as of the date of this order. OAH will issue a scheduling order with the new dates.
3. Loleta and Humboldt-Del Norte's Motion to Dismiss Complaint and Motion to Dismiss Party are denied as moot.

IT IS SO ORDERED.

DATE: October 6, 2015

/s/

THERESA RAVANDI
Administrative Law Judge
Office of Administrative Hearings