

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SACRAMENTO CITY UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2015090975

ORDER GRANTING MOTION TO
AMEND COMPLAINT

On September 23, 2015, Student filed a Due Process Hearing Request (complaint) naming Sacramento City Unified School District as Respondent. On February 8, 2016, a telephonic prehearing conference was held before the undersigned ALJ. During the PHC, Student sought to include issues through the 2015-2016 extended school year including those related to an IEP team meeting held in January 2016 which took place well after his initial complaint was filed. The request was denied as outside the scope of the complaint. On February 10, 2016, Sacramento City's request to continue the due process hearing scheduled to commence on February 16, 2016, was granted and the matter reset for March 29, 2016. On February 11, 2016, Student filed an amended complaint seeking to add issues through the 2015-2016 extended school year. Sacramento City did not respond to Student's motion to amend his complaint.

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).) The filing of an amended complaint restarts the applicable timelines for the due process hearing. (20 U.S.C. §1415(c)(2)(E)(ii).)

The request to amend Student's complaint at this late date must also be balanced against the IDEA's requirement that absent a continuance for good cause, a due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) The law expects that disputes will be resolved expeditiously and amending a complaint to essentially add an additional school year thwarts the law's intended outcome.

In this case, however, the motion to amend is granted because it was timely made and the continuance sought by Sacramento City and granted already continued this hearing to a

date nearly identical to when the matter on Student's amended complaint will be heard. That said, the parties are on notice that any requests to continue the dates scheduled as a result of the amended complaint, will not be considered an initial request for a continuance and will be disfavored. The amended complaint shall be deemed filed on the date of this order. All applicable timelines shall be reset as of the date of this order. OAH will issue a scheduling order with the new dates.

IT IS SO ORDERED.

DATE: February 18, 2016

DocuSigned by:

Joy Redmon

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JOY REDMON

Administrative Law Judge

Office of Administrative Hearings