

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

OAH Case No. 2015100813

v.

IRVINE UNIFIED SCHOOL DISTRICT,

IRVINE UNIFIED SCHOOL DISTRICT,

OAH Case Nos. 2015120606 and
2016030526

v.

PARENT ON BEHALF OF STUDENT.

ORDER GRANTING MOTION TO
AMEND COMPLAINT AND MOTION
TO CONSOLIDATE AND ORDER
SETTING DATES

On October 23, 2015, Student filed a Due Process Hearing Request (complaint) with the Office of Administrative Hearings, naming Irvine Unified School District. On December 21, 2015, that case was consolidated with 2015120606, an action filed by District on December 17, 2015. District filed another action on March 10, 2016, which was given OAH case number 2016030526. On March 14, 2016, Student and District filed a Joint Motion to Amend Student's Complaint and Consolidate and Continue Cases, seeking to amend Student's due process hearing request, consolidate both cases with the newly-filed District action, and continue the consolidated case.

1. Amendment

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 motion to amend is unopposed and timely, and is granted. The amended complaint shall be deemed filed on the date of this order.

2. Consolidation

Although no statute or regulation specifically provides a standard to be applied in deciding a motion to consolidate special education cases, OAH will generally consolidate matters that involve: a common question of law and/or fact; the same parties; and when consolidation of the matters furthers the interests of judicial economy by saving time or preventing inconsistent rulings. (See Gov. Code, § 11507.3, subd. (a) [administrative proceedings may be consolidated if they involve a common question of law or fact]; Code of Civ. Proc., § 1048, subd. (a) [same applies to civil cases].)

Here, the consolidated cases and District's newly-filed Case involve a common question of law or fact, concerning Student's educational program for the school year 2015-2016. Student's proposed amendments and District's new action both the March 2016 individualized educational program meeting. In addition, consolidation furthers the interests of judicial economy because it would be inefficient to separately resolve Student's and District's claims arising from the same IEP meeting. Accordingly, consolidation is granted, and Student's case, OAH Case No. 2015100813, still remains the primary case.

3. Continuance

The filing of an Amended Complaint restarts the timelines for the action, hence a continuance is ordinarily not required. In the Joint Motion, the parties sought to have OAH set a prehearing conference for April 8, 2016, and set the hearing for April 19-21, 2016. Although the parties have agreed to those dates, the parties are required to hold a resolution session upon Student's filing of an amended complaint. (20 U.S.C. § 1415(f)(1)(B)(i)(I); 34 C.F.R. § 300.510(a)(1) and (3) (2006).) The requested dates do not allow for a resolution session. Accordingly, all applicable timelines shall be reset as of the date of this order and OAH will issue a scheduling order with new dates for the prehearing conference and the due process hearing.

IT IS SO ORDERED.

DATE: March 16, 2016

DocuSigned by:

Chris Butchko

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CHRIS BUTCHKO

Administrative Law Judge

Office of Administrative Hearings