

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

CUPERTINO UNION SCHOOL
DISTRICT.

OAH CASE NO. 2013110550

ORDER GRANTING MOTION TO
AMEND COMPLAINT

On November 18, 2013, Parents on behalf of Student (Student) filed with the Office of Administrative Hearings (OAH) a Request for Due Process Hearing (complaint) against the Cupertino Union School District (District). On February 11, 2014, Student filed a motion to amend the complaint and submitted a copy of the proposed amended complaint. On February 13, 2014, OAH received District's notice of non-opposition to Student's motion.

APPLICABLE LAW AND DISCUSSION

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); Ed. Code, § 56502, subd. (e).) The filing of an amended complaint restarts the applicable timelines for the due process hearing. (20 U.S.C. § 1415(c)(2)(E)(ii); Ed. Code, § 56502, subd. (e).) In a student-filed case, these timelines include a new resolution session period. (Ed. Code, § 56501.5.)

The due process hearing in this matter is currently scheduled to begin on February 24, 2014. Therefore, Student's motion to amend the complaint is timely as the due process hearing date is not set to begin within five days from the date of this ruling on the motion to amend. Additionally, District does not oppose Student's request to amend. Accordingly, Student's motion to amend the complaint is granted.

ORDER

1. Student's motion to amend the complaint is granted.

2. Student's amended complaint shall be deemed filed on the date of this order and all applicable timelines shall be reset as of the date of this order.
3. All currently set dates in this matter are vacated.
4. The 45-day timeline for issuance of the decision in this matter shall be based on the date of this order.
5. OAH will issue a scheduling order with the new dates based on the timelines now reset pursuant to this order.

IT IS SO ORDERED.

DATE: February 14, 2014

ADENIYI AYOADE
Administrative Law Judge
Office of Administrative Hearings