

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT AND SACRAMENTO CITY
UNIFIED SCHOOL DISTRICT.

OAH Case No. 2015010421

ORDER FOLLOWING PREHEARING
CONFERENCE AND GRANTING
MOTION TO AMEND

On February 23, 2015, a telephonic prehearing conference (PHC) was held before Administrative Law Judge Margaret Broussard, Office of Administrative Hearings. Nicole Hodge Amey, Attorney at Law, appeared on behalf of Student. Sarah Garcia, Attorney at Law, appeared on behalf of Sacramento City Unified School District. Mary Kellogg, Attorney at Law, appeared on behalf of Los Angeles Unified School District and was accompanied by Sharon Robertson. The PHC was recorded.

Based on discussion of the parties, the ALJ issues the following orders:

Motion to Amend¹

This case was originally filed for Student by his parents without the assistance of an attorney. Parents are native Spanish speakers and the complaint was originally filed in Spanish. On January 30, 2015, Ms. Hodge Amey sent OAH a notice of representation. Ms. Hodge Amey notified the attorney for Sacramento City Unified that she intended to file an amended complaint. However, due to language difficulties with her clients, she did not have the opportunity to speak to Parents in depth or have documents translated until late last week. Ms. Hodge Amey's late-filed PHC statement contained a list of issues that she admits are not contained in the originally translated complaint. Ms. Hodge Amey moved for permission to file an amended complaint. Los Angeles and Sacramento opposed the motion.

¹ At the PHC, Los Angeles raised a motion to bifurcate, which was denied. Sacramento renewed its motion to dismiss, which was granted only if Student failed to file an amended complaint by 5:00 p.m. on February 26, 2015. As the amended complaint was timely filed, the motions pertained to the initial complaint and not the amended complaint, and is moot and is denied. Sacramento and Los Angeles are not estopped from filing any motions in regards to the amended complaint.

DISCUSSION AND ORDER

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 timely and is granted. However, Student was ordered to file the amended complaint not later than 5:00 p.m. on February 26, 2015. The amended complaint was timely filed on February 25, 2014 and shall be deemed filed as of that date. All applicable timelines shall be reset and OAH will issue a scheduling order with the new dates.

IT IS SO ORDERED.

DATE: February 26, 2015

/s/

MARGARET BROUSSARD
Administrative Law Judge
Office of Administrative Hearings