BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

ENTERPRISE ELEMENTARY SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NUMBER 2021020664

# ORDER GRANTING MOTION TO AMEND COMPLAINT AND ORDER GRANTING CONTINUANCE

MARCH 22, 2021

On February 18, 2021, Enterprise Elementary School District filed a Due Process Hearing Request, referred to as a complaint, with the Office of Administrative Hearings, naming Parent on behalf of Student. The Office of Administrative Hearings is referred to as OAH. On March 10, 2021, Enterprise Elementary School District filed a Motion to Amend the Due Process Hearing Request and an amended complaint.

On March 16, 2021, OAH issued an Order Following Prehearing Conference Granting Continuance and Setting Time for Response to Motion to Amend. Pursuant to the order, Student's counsel was provided an opportunity to review and respond to the

Motion to Amend. On March 19, 2021, Student timely filed a Notice of Non-Opposition to Enterprise Elementary School District's Motion to Amend.

An amended complaint may be filed when the other party consents in writing and is given the opportunity to resolve the complaint through a resolution session, or when the hearing officer grants permission. The hearing officer may grant permission at any time more than five days before 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 was filed more than five days prior to the due process hearing and three business days before the March 15, 2021 prehearing videoconference. Therefore, it is timely and is granted. Further, Student does not oppose the motion. 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.

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.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (Ed. Code, § 56505, subd. (f)(3); Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the

availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance or imposing conditions on the continuance; and any other relevant fact or circumstance. (Cal. Rules of Court, rule 3.1332(d).)

As the parties agreed to a continuance at the March 15, 2021 Prehearing Conference while this motion was pending, OAH presumes that the parties wished that this matter be continued to the agreed upon dates. The case shall proceed as follows:

Mediation: April 2, 2021, from 9:00 AM to 4:30 PM.

Prehearing Conference: April 16, 2021 at 10:00 AM. All other prehearing matters shall be addressed at the April 16, 2021 Prehearing Conference. All prehearing motions must be filed three business days before the Prehearing Conference.

Due Process Hearing: April 27, 28, and 29, 2021.

The hearing shall begin at 9:30 AM on all days unless otherwise ordered. The hearing shall continue day to day at the discretion of the ALJ.

IT IS SO ORDERED.

Jennifer Kelly

Jennifer Kelly
Administrative Law Judge
Office of Administrative Hearings