BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

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| In the Matter of:<br><br>PARENT ON BEHALF OF STUDENT,<br><br>v.<br><br>CAPISTRANO UNIFIED SCHOOL DISTRICT. | OAH Case No. 2017120674<br><br>ORDER GRANTING MOTION TO AMEND COMPLAINT |

On December 15, 2017, Student filed a Due Process Hearing Request (complaint) with the Office of Administrative Hearings, naming Capistrano Unified School District. OAH issued a scheduling order setting a prehearing conference on February 2, 2018, and a due process hearing beginning on February 13, 2018. On January 17, 2018, Student filed a Motion to Amend the Due Process Hearing Request (amended complaint). District filed an opposition on January 22, 2018.

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).)

District opposes Student's motion and argues that Student's two new issues have no legal basis, they are not based on new facts, and that Student is trying to extend the timeline. Student added two issues in her amended complaint, first that District denied her a free appropriate public education when it failed to file for due process to defend the December 18, 2015 individualized education program, and second, that District denied her a FAPE when it failed to file for due process to defend the IEP developed on May 23, 2016 and September 12, 2016.

A party has the right to present a complaint "with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child." (20 U.S.C. § 1415(b)(6); Ed. Code, § 56501, subd. (a).) Additionally, Students are not required to include all issues in one complaint. (20 U.S.C. § 1415(o); Ed. Code, § 56509.) Although it is likely Student was aware of the additional two issues when she filed her first complaint, she was not required to include all known issues at that time. Student could file a second complaint, however, that could also lead to a delay in the cases if Student were to ask OAH to consolidate the two matters. OAH

has denied motions to amend when the proposed amended complaint does not contain any new issues. However, here Student included two issues that were not raised in the original complaint.

For the reasons stated above, Student's motion to amend is timely and is granted. 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: January 23, 2018

DocuSigned by:
Linda Johnson
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LINDA JOHNSON
Administrative Law Judge
Office of Administrative Hearings