BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

UPLAND UNIFIED SCHOOL DISTRICT AND ASUZA UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2024110297

ORDER GRANTING STUDENT'S SECOND MOTION TO AMEND COMPLAINT AND DENYING MOTIONS TO UNEXPEDITE HEARING AS MOOT

NOVEMBER 27, 2024

On November 12, 2024, Student filed a Due Process Hearing Request, referred to as a complaint, with the Office of Administrative Hearings, naming Upland Unified School District and Asuza Unified School District. The Office of Administrative Hearings is called OAH. Upland Unified School District is called Upland. Asuza Unified School District is called Asuza.

Student's complaint included expedited and non-expedited issues. On November 12, 2024, OAH issued a scheduling order setting both an expedited and non-expedited hearing.

On November 25, 2024, Student filed a Motion to Amend the Due Process Hearing Request and an amended complaint. Also on November 25, 2024, Student filed a Motion to Unexpedite Hearing.

On November 26, 2024, Upland filed a non-opposition to both Student's Motion to Amend and the Motion to Unexpedite Hearing. OAH did not receive a response from Asuza for either motion.

Later on November 26, 2024, Student filed a second Motion to Amend the Due Process Hearing Request, and a second amended complaint. Student also filed a second Motion to Unexpedite Hearing. OAH did not receive a response from Upland or Asuza for either motion.

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).)

Student filed his second Motion to Amend before OAH could rule on the first motion, received on November 25, 2024. Thus, Student's second Motion to Amend,

filed on November 26, 2024, supersedes Student's Motion to Amend, filed on November 25, 2024.

The motion to amend was filed more than five days prior to the due process hearing. OAH did not receive a response from Upland or Asuza. Upland and Asuza's lack of response notwithstanding, 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.

MOTIONS TO UNEXPEDITE HEARING

Student filed two motions to unexpedite the due process hearing, filed on November 25, 2024, and November 26, 2024, respectively. Through both motions, Student moved to vacate the expedited hearing, asserting that Student no longer attends Upland, the relevant respondent school district for Student's expedited issues.

Student's motions are denied as moot, because the motions relate to Student's initial complaint filed November 12, 2024, which is no longer the operative complaint in this matter.

While this Order makes no determination regarding the merits of Student's motions, the Parties are on notice that Student's current school district of attendance is not determinative of whether an issue is expedited.

ORDER

1. Student's Second Motion to Amend is granted.
2. The second amended complaint shall be deemed filed on the date of this order.
3. All applicable timelines shall be reset as of the date of this order.

4. All pending dates in this matter, including the expedited mediation set for December 3, 2024, are vacated.
5. OAH shall issue a new scheduling order.
6. Student's Motions to Unexpedite Hearing are denied as moot.

IT IS SO ORDERED.

Ashok Pathi

Ashok Pathi

Administrative Law Judge

Office of Administrative Hearings