BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. NEWPORT-MESA UNIFIED SCHOOL DISTRICT.	OAH Case No. 2015050430 (Primary)
NEWPORT-MESA UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2016010309 (Secondary) ORDER GRANTING MOTION TO AMEND COMPLAINT AND GRANTING CONSOLIDATION

On April 30, 2015, Student filed a due process hearing request (complaint) with the Office of Administrative Hearings, naming Newport-Mesa Unified School District (Student's Case). On August 31, 2015, Student filed an amended complaint pursuant to an order granting leave to amend. On January 11, 2016, District filed a complaint (District's Case) naming Student regarding a multidisciplinary assessment completed in November 2015. Also on January 11, 2016, Student and District timely filed a joint motion and stipulation to amend Student's Case and District's Case. Student seeks leave to file a second amended complaint to allege substantive and procedural violations of District's obligations to child find and offer a free appropriate public education, including inappropriate assessments, in the 2015-2016 school year.

Motion for Leave to Amend

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).)

Student's case was filed 8 months ago, but the allegations of the proposed second amended complaint reflect actions taken by District with regard to the issues already presented in the current pleadings, and are not to wholly new allegations. Those actions are both relevant to the currently alleged issues, and the basis of related alleged procedural and substantive violations of Student's right to a free appropriate public education. The motion to file a second amended complaint is consented to by District, and is granted. However, in light of the age of Student's case, no further amendments are contemplated.

Motion to Consolidate

Here, the Student's Case and the District's Case involve common questions of law or fact, specifically, whether Student should have been found eligible for special education and related services pursuant to the November 2015 assessments by District, and whether those assessments were appropriate. Consolidation furthers the interest of judicial economy because the same witnesses and evidence will be presented in both cases. Consolidation will avoid the duplication of time, expense and resources involved in having these matters proceed to hearing separately. Accordingly, consolidation is granted.

ORDER

1. The parties' joint motion to allow Student leave to file a second amended complaint is granted.

2. The parties' joint motion to consolidate Student's Case (Case No. 2015050430) and District's Case (Case No. 2016010309) is granted.

3. Student's second 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.

4. All currently scheduled dates in Student's Case and District's case are vacated.

5. The 45-day timeline for issuance of the decision in the consolidated cases shall be based on the date of the filing of Student's second amended complaint in Case No. 2015050430 .

DATE: January 19, 2016

/s/
ALEXA J. HOHENSEE
Administrative Law Judge
Office of Administrative Hearings