BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

TRAVIS UNIFIED SCHOOL DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NUMBER 2022070352

ORDER GRANTING MOTION TO FILE SECOND AMENDED COMPLAINT

DECEMBER 15, 2022

On July 12, 2022, Travis Unified School District, called Travis, filed a Due Process Hearing Request, referred to as a complaint, with the Office of Administrative Hearings, naming Student. The Office of Administrative Hearings is referred to as OAH. On July 27, 2022, the parties filed a joint request to continue the due process hearing dates on the grounds Parents were in the process of retaining legal counsel. On July 27, 2022, OAH issued an order granting the parties 'request to continue the due process hearing.

On August 30, 2022, Travis filed a motion to amend the complaint. The amended complaint sought to add claims relating to the appropriateness of Travis' offer of placement and services in the March 28, 2022, and April 4, 2022, individualized

education programs for the 2022-2023 school year. An individualized education program is referred to as IEP. Student did not oppose the motion to amend. OAH issued an order granting Travis' motion to amend on September 1, 2022.

On September 16, 2022, Attorney Tania L. Whiteleather filed a notice of representation with OAH confirming her representation of Student.

OAH convened a prehearing conference on September 19, 2022. Student moved to continue the prehearing conference and due process hearing on the basis his counsel was not prepared to proceed with the prehearing conference or due process hearing. On September 19, 2022, OAH issued an order following prehearing conference granting Student's request to continue the prehearing conference and due process hearing. The prehearing conference was continued to November 7, 2022, and the due process hearing was continued to November 15, 16, and 17, 2022.

On November 2, 2022, the parties filed a joint request to schedule mediation and continue due process hearing. On November 3, 2022, OAH issued an order granting the request to schedule mediation and continue the due process hearing. OAH continued the prehearing conference to December 30, 2022, at 1:00 pm, and the due process hearing to January 10, 11, and 12, 2023.

On December 8, 2022, Travis filed a motion to file a second amended complaint. Travis alleges on October 17, 2022, Student requested Travis fund independent educational evaluations at public expense in the areas of speech and language and psychoeducation based upon his disagreements with Travis' September 2021 speech and language and psychoeducational assessments, and its March 2022 psychoeducational assessment. The second amended complaint requests an additional finding that its September 2021 speech and language and psychoeducational

assessments and March 2022 psychoeducational assessment are appropriate, such that Student is not entitled to independent educational evaluations at public expense.

No opposition to Travis' motion to file a second amended complaint was received from Student.

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).)

Travis seeks to modify the complaint to include the appropriateness of its assessments in the areas of speech and language and psychoeducational conducted by Travis in fall 2021 and spring 2022, which informed its offer of a free appropriate public education, called FAPE, for the 2022-2023 school year, as stated in the March 28, 2022 and April 4, 2022 IEPs. OAH has considered Travis' motion to amend and the facts and circumstances of this case. While the motion to amend was filed more than five days prior to hearing, granting such a motion is within the sound discretion of the administrative law judge. OAH must be mindful of the requirement that due process hearings are to proceed to hearing in an expedited manner. OAH has granted the parties' joint requests to continue this matter on two separate occasions and granted Student's request to continue based upon his retention of counsel in September 2022. This case has been pending for five months and allowing Travis to amend its complaint will further prolong the due process hearing.

However, Student was not represented by counsel until September 2022, and Travis was not informed of Student's challenges to the appropriateness of the September 2021 speech and language and psychoeducational assessments and March 2022 psychoeducational assessment until October 17, 2022. Further, the interests of justice are served by determining these issues in a single proceeding because they involve the same IEPs, witnesses, and documents.

Travis' request to file a second amended complaint is granted. The 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.

Any further requests to amend the complaint or continue the due process hearing shall require a showing of good cause supported by a declaration under the penalty of perjury.

IT IS SO ORDERED.

Jennifer Kelly

Jennifer Kelly
Administrative Law Judge
Office of Administrative Hearings