BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

V.

LOS ANGELES UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2022010333

ORDER GRANTING MOTION TO AMEND COMPLAINT

JUNE 2, 2022

On January 12, 2022, Student filed a Due Process Hearing Request, referred to as a complaint, with the Office of Administrative Hearings, naming Los Angeles Unified School District. The Office of Administrative Hearings is referred to as OAH.

On February 11, 2022, OAH granted the parties request for a March 15, 2022 mediation and a continuance of the hearing from March 8 through 10, 2022 to May 10 through 12, 2022.

On April 27, 2022, OAH granted the parties' joint request for a second mediation to take place on May 26, 2022 and to continue the hearing to June 14 through 16, 2022. The joint request was granted based on the parties' representations that they previously agreed to an interim settlement agreement which called for additional assessments and

an individualized education program team meeting to review the assessments scheduled for May 5, 2022, after which the parties believed that a further mediation was needed to allow them to achieve a final settlement agreement in this matter. At that time, OAH notified the parties that it did not contemplate any further continuances.

The parties participated in a second mediation on May 26, 2022.

On June 1, 2022 Student filed a Motion to Amend the Due Process Hearing Request and a proposed amended complaint. Student argues that she has additional claims based upon the initial May 5, 2022 IEP in which Student was not found eligible for special education, after Los Angeles Unified conducted assessments following Student's filing of the original complaint. Student claims that the amendment is necessary for judicial economy because the new allegations regarding the May 5, 2022 IEP are closely related to the allegations in the original complaint (which is primarily based on District's continuing failure beginning in March 2020 to conduct any initial special education assessment of Student to determine her eligibility for special education and related services, and its failure to find her eligible for special education). The amended complaint also substantively changes Student's Issue 2.

On June 1, 2022, Los Angeles Unified filed a notice of non-opposition on the condition it is given the opportunity to resolve the case through an informal resolution session and the timelines are reset.

On June 1, 2022, Los Angeles Unified also filed motion to strike Exhibit 1 attached to Student's motion to amend because it contained confidential settlement communications.

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 timely because it was filed more than five days prior to the due process hearing, and Los Angeles does not oppose the motion. The amended complaint also substantively changes Student's Issue 2, and many of the new issues are based on the same contentions regarding eligibility as the original filing. Accordingly, the motion is granted. The proposed 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.

Because this case has been pending since January 12, 2022 and two mediations have already been held, if the parties desire to mediate the case with the new claims, such mediation shall take place prior to the new hearing dates. Given the circumstances of this case, there shall be no further continuances based on the parties' request to participate in mediation.

Los Angeles Unified's motion to strike Exhibit 1 attached to Student's motion to amend will be addressed by a separate order after Student is given the opportunity to

respond or oppose the motion to strike. Student's response/opposition, if any, shall be filed and served no later than June 6, 2022 at 5:00 PM.

IT IS SO ORDERED.

Laurie Gorsline

Laurie Gorsline

Administrative Law Judge

Office of Administrative Hearings