BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT

V.

CAPISTRANO UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2022120076

ORDER GRANTING MOTION TO AMEND COMPLAINT

MAY 18, 2023

On November 30, 2022, Student filed a Due Process Hearing Request, referred to here as the complaint, with the Office of Administrative Hearings, naming Capistrano Unified School District. The Office of Administrative Hearings is referred to as OAH. On May 17, 2023, Student filed a motion to amend the complaint. Capistrano Unified filed Notice of Non-Opposition to the motion.

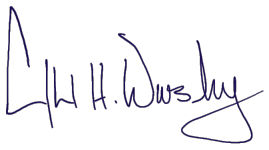
An amended complaint may be filed when the other party consents in writing and is given the opportunity to resolve the complaint through a resolution session, or when the hearing officer grants permission. The hearing officer may grant permission at any time more than five days before the due process 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).)

On April 12, 2023, Parent filed another due process request, with one issue and multiple subparts, regarding a November 2022 annual IEP for Student, OAH Case No. 2023040486, naming Capistrano Unified. Parent told Capistrano Unified's counsel that Student was open to consolidation of the two matters, so the November 2022 IEP issues are heard together with those in this matter. Capistrano Unified filed a motion to consolidate Student's two complaints.

Administrative Law Judge Brian Krikorian convened a prehearing conference in this matter on April 21, 2023. In his subsequently issued Order Following Prehearing Conference, ALJ Krikorian denied the motion to consolidate. In so doing, ALJ Krikorian said that Parent may file a motion to amend the complaint in this matter, so there is only one operative complaint, and dismiss Student's Case number 2023040486. Student has now filed the request to amend. The proposed amended complaint contains the allegations regarding Student's November 2022 IEP.

The motion to amend was filed more than five days prior to the due process hearing and is timely. Capistrano Unified does not oppose. The motion is granted, all dates are vacated, and OAH will issue a scheduling order with the new dates.

IT IS SO ORDERED.



Clifford H. Woosley
Administrative Law Judge
Office of Administrative Hearings