BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. STOCKTON UNIFIED SCHOOL DISTRICT.	OAH CASE NO. 2013070020 ORDER GRANTING MOTION TO AMEND COMPLAINT

On June 26, 2013, Student filed a due process hearing request (complaint), naming Stockton Unified School District (District). On August 26, 2013, Student filed a motion to amend the complaint, and also filed the proposed amended complaint (amended complaint). District filed an opposition on August 29, 2013.

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).)[1] The filing of an amended complaint restarts the applicable timelines for the due process hearing. (20 U.S.C. §1415(c)(2)(E)(ii).)

In its opposition the District cited an order dated August 20, 2012, that was made in OAH Case No. 2012040848, as authority for OAH to deny Student's request to file an amended complaint. The order cited by Student is actually an order from the prehearing conference (PHC) in that case, and the circumstances that led the Administrative Law Judge (ALJ) to deny the request to amend the complaint can be readily distinguished from the facts of this case.

In Case No. 2012040848, during the course of the telephonic PHC, one of the parties executed a settlement agreement, and Student's attorney then dismissed that party and the two issues pertaining to that party. The school district in that case was not named in either issue. However, later during the PHC, Student's counsel asked if the two issues could be reworded so they pertained to the school district. The ALJ conducting the PHC construed that as a request to amend the complaint and denied the request. The request was denied because the hearing was due to begin in nine days, the complaint had been on file with OAH

[1] All statutory citations are to title 20 United States Code unless otherwise indicated.

for four months,[2] and the District was not prepared to litigate the issues which had previously pertained only to the other respondent party, even if the parties were to make necessary stipulations to have the currently scheduled hearing move forward. Finally, rulings in other OAH cases may be instructive, but they are not precedents for ALJ's to rely on in the future. (Cal. Code Regs., tit. 5 § 3085.)

Student asks to amend the complaint to add issues that he recently discovered when he received his complete student records, after the filing of the original complaint, and also to add issues related to an individualized education program team meeting that occurred in August 2013, again after the original complaint was filed. The motion to amend is timely and is granted. The amended complaint shall be deemed filed on the date of this order or other date if applicable. All applicable timelines shall be reset as of the date of this order. OAH will issue a scheduling order with the new dates.

IT IS SO ORDERED.

Dated: September 9, 2013

/s/
REBECCA FREIE
Administrative Law Judge
Office of Administrative Hearings

[2] This case has only been on file with OAH for slightly more than two months.