BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. NEW HAVEN UNIFIED SCHOOL DISTRICT.	OAH CASE NO. 2013010236 ORDER DENYING MOTION TO AMEND COMPLAINT AND REASSIGNING MATTER

On January 8, 2013, Nicole Hodge Amey, Attorney at Law, representing Parent and Student (Student), filed with the Office of Administrative Hearings (OAH) a Due Process Hearing Request (complaint) naming the New Haven Unified School District (District). On April 11, 2013, Student filed an amended complaint which OAH deems to be a motion to amend the complaint.[1] During the afternoon of April 11, 2013, Student filed a declaration in support of his motion to amend. On April 12, 2013, Laurie E. Reynolds, Attorney at Law, representing the District, filed an Opposition to Student's Motion to Amend along with a Motion to Strike Declaration.[2]

APPLICABLE LAW AND DISCUSSION

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

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[1] Student's amended complaint was received after 5:00 p.m. on April 10, 2011, and therefore is deemed filed as of April 11, 2013.

[2] The District's Motion to Strike Declaration will be addressed at the start of the hearing. The District also filed a separate Motion for Sanctions on April 12, 2013. This motion will also be addressed during the hearing.

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

The motion to amend the complaint is not timely because the due process hearing date is set within five days from the date the motion to amend was filed with OAH. Therefore, Student's motion to amend is denied.

ORDER

1. Student's Motion to Amend Complaint is denied as untimely.

2. The due process hearing shall commence as previously scheduled on April 16, 2013, at 9:30 a.m. **This matter is reassigned to Administrative Law Judge Theresa Ravandi. Due to a scheduling conflict, the hearing will be dark on April 18, 2013, and resume on April 24, 2013, at 9:30 a.m**.[4]

Dated: April 13, 2013

/s/
BOB N. VARMA
Presiding Administrative Law Judge
Office of Administrative Hearings

[4] The parties shall be prepared to address any scheduling issues at the commencement of the hearing.