BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENTS ON BEHALF OF STUDENT, v. BALDWIN PARK UNIFIED SCHOOL DISTRICT,	OAH Case No. 2016060925
BALDWIN PARK UNIFIED SCHOOL DISTRICT, v. PARENTS ON BEHALF OF STUDENT.	OAH Case No. 2016050319 ORDER DENYING MOTION TO FILE A SECOND AMENDED COMPLAINT

On May 6, 2016, Baldwin Park Unified School District filed a Due Process Hearing Request (District's Complaint) with the Office of Administrative Hearings, naming Parents on behalf of Student. On May 27, 2016, OAH granted District's request to continue the due process hearing to August 23 through 25, 2016.

On June 20, 2016, Student filed a Due Process Hearing Request (Student's Complaint). On July 27, 2016, Student filed a motion to consolidate his complaint with District's Complaint; District did not oppose. OAH ordered these matters consolidated on July 28, 2016, setting hearing for the August 2016 dates previously set for District's Complaint.

On August 11, 2016, OAH granted Student's request to file a first amended complaint (Student's Amended Complaint), with the due process hearing rescheduled for September 7, 2016. On August 30, 2016, OAH granted the parties' joint request to continue the hearing to the currently scheduled dates of September 27 through 29, 2016, with a prehearing conference of September 19, 2016.

On September 15, 2016, Student filed a motion to file a second amended complaint (Student's Second Amended Complaint). On September 16, 2016, District filed an opposition to the motion.[1]

[1] The parties' counsel argued the motion at the September 19, 2016 prehearing conference.

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

Here, Student's proposed Second Amended Complaint does not add issues, but merely includes factual assertions in support of the issues and seeks additional remedies. Student's First Amended Complaint asserts that District's offer fails to provide Student with a FAPE because placement is not in the least restrictive environment. Student's proposed Second Amended Complaint adds the factual assertions that District's placement offer of a moderate/severe special day class in the Cornerstone program at De Anza Elementary School was not the least restrictive environment and, additionally, the offer did not provide sufficient mainstreaming. Student's proposed Second Amended Complaint does not substantively amend Student's First Amended Complaint. Student also seeks to add a remedy requesting that District reimburse Parents for the inclusion assessment. Student is free to argue for remedies that differ from those requested in the original complaint based upon the evidence at hearing.

Accordingly, Student's motion to file a second amended complaint is denied.

IT IS SO ORDERED.

DATE: September 19, 2016

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CLIFFORD H. WOOSLEY
Administrative Law Judge
Office of Administrative Hearings