BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS INVOLVING:

PARENT ON BEHALF OF STUDENT,

AND

CONEJO VALLEY UNIFIED SCHOOL DISTRICT,

OAH CASE NUMBER 2022030819

OAH CASE NUMBER 2022030461

ORDER GRANTING MOTION TO AMEND COMPLAINT; DENYING STUDENT'S REQUEST FOR SANCTIONS

MAY 17, 2022

On March 14, 2022, Conejo Valley Unified School District, called Conejo, filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH case number 2022030461, Conejo's Case, naming Student.

On March 23, 2022, Student filed a Request for Due Process Hearing in OAH case number 2022030819, Student's Case, naming Conejo.

On March 23, 2022, Student filed a Motion to Consolidate the cases. On March 25, 2022, OAH granted the Motion to Consolidate, and designated Student's Case, OAH case number 2022030819, as the primary case in the consolidated matter.

On May 10, 2022, Conejo filed a Motion to Amend the Due Process Hearing Request and an amended complaint for OAH case number 2022030461. Conejo contends that adding two issues regarding the appropriateness of its triennial assessments and individualized education program, called an IEP, was appropriate as Student's complaint also included asking for OAH to determine if an inclusion assessment, which was part of Student's triennial assessment and subsequent IEP offer, was appropriate.

On May 11, 2022, Student filed an opposition to the Motion to Amend and requested sanctions against Conejo for using the Motion to Amend as a hearing delay tactic.

On May 12, 2022, Conejo responded to Student's opposition contending that the Motion to Amend was appropriate and sanctions were unwarranted because the proposed amended complaint dealt with the appropriateness of assessments included in Student's complaint. Further, Conejo proposed that OAH grant its Motion to Amend, and keep the currently scheduled mediation, prehearing conference and hearing dates in Student's Case. The dates in Student's Case are as follows: Mediation is on May 25, 2022; Prehearing Conference is on June 6, 2022 at 3:00 PM; and the first day of hearing is on June 14, 2022.

MOTION TO AMEND

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 filed more than five days prior to the due process hearing. Therefore, it is timely and is granted. The amended complaint shall be deemed filed on the date of this order, the previously determined primary case designation remains, and the decision timeline governed by amended complaint in Student's Case, OAH case number 2022030819. The mediation scheduled for May 25, 2022, remains on calendar unless cancelled by a party, and the timeline governing this matter shall not change. (34 C.F.R. § 300.510(c); Ed. Code, § 56501.5, subd. (d).)

Further, Student's sanctions request based on contentions that Conejo's Motion to Amend was inappropriate and filed to delay the currently scheduled hearing dates is denied. The proposed amended complaint added issues which were not inappropriate. The two issues of the proposed amended complaint included triennial assessments and subsequent IEP offer which was more expansive than the inclusion assessment in Student's Case. Further, Conejo agreed that the currently scheduled dates in the Student's Case remain to prevent delays in resolution and/or hearing in the consolidated case. Because keeping the currently scheduled hearing dates previously agreed to by the parties and ordered by OAH on April 12, 2022 alleviates Student's concern for hearing delay, those dates shall remain as follows:

Mediation will remain and be held on May 25, 2022, at 9:00 AM. The mediation will be conducted by videoconference.

Prehearing Conference will remain and be held on June 6, 2022, at 3:00 PM. The Prehearing Conference will be conducted by videoconference.

Due Process Hearing will remain and be held on June 14, 15, and 16, 2022. The hearing shall begin at 9:30 AM on all days unless otherwise ordered. The hearing shall continue day to day, as needed at the discretion of the Administrative Law Judge. The Hearing will be conducted by videoconference unless otherwise ordered.

Because the dates in this matter remain the same, the previously determined primary case designation remains, and the decision timeline is governed by OAH case number 2022030819.

IT IS SO ORDERED.

Sabrina Kong

Sabrina Kong
Administrative Law Judge
Office of Administrative Hearings