BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. TUSTIN UNIFIED SCHOOL DISTRICT.	OAH Case No. 2015080076 ORDER GRANTING MOTION TO AMEND COMPLAINT

On July 29, 2015, Student filed a Request for Due Process Hearing complaint with the Office of Administrative Hearings, naming Tustin Unified School District. On November 25, 2015, Student filed a Motion to Amend the Request for Due Process Hearing (amended complaint). District filed a partial opposition on December 1, 2015. District consents to the request to amend the complaint, but opposes any change in the hearing dates scheduled for December 15 and 16, 2015.

APPLICABLE LAW

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).)

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted. (34 C.F.R. § 300.515(a) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3).) Speedy resolution of the due process hearing is mandated by law and continuance of the hearing may be granted only upon a showing of good cause. (Ed. Code, § 56505, subd. (f)(3).)

DISCUSSION

The motion to amend is timely. District does not oppose Student's request to amend the complaint, but opposes any change in the currently scheduled due process hearing dates. Under the IDEA, all applicable timelines for due process actions, including the hearing dates, are automatically reset upon amendment. (20 U.S.C. § 1415 (c)(2)(E)(ii).) This resetting permits parties sufficient time to investigate additional allegations, identify any additional relevant witnesses and documents, as well as conduct a resolution session as to those

additional allegations. This matter has been previously continued once. It is also noted that the previously set mediation date was cancelled. Good cause exists for continuance of this matter to allow the parties to address all issues asserted by Student which have arisen during the two-year statutory period. District will not be prejudiced as Student is not eligible for special education and related services at this time.. Further, continuance of the matter will allow the parties additional time for a resolution session and mediation.

ORDER

1. Student's Motion to amend the complaint is granted.

2. The amended complaint shall be deemed filed on the date of this order. 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.

DATE: December 2, 2015

/s/
JUDITH PASEWARK
Administrative Law Judge
Office of Administrative Hearings