BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

V.

LONG BEACH UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021030090

ORDER GRANTING MOTION TO AMEND COMPLAINT

AUGUST 16, 2021

On March 2, 2021, Student filed a due process hearing request, referred to as a complaint, with the Office of Administrative Hearings, naming Long Beach Unified School District. The Office of Administrative Hearings is called OAH. Long Beach Unified School District is called Long Beach. On August 10, 2021, Student filed a motion to amend the complaint, and an amended complaint. On August 13, 2021, Long Beach filed an opposition to the motion to amend. Long Beach argued that most of the issues in Student's complaint and amended complaint were similar to issues already litigated in a prior hearing with ALJ Linda Johnson in OAH Case No. 2020090441. Therefore, Long Beach argued that Student and should be precluded from filing an amended complaint. The hearing is scheduled to start on August 24, 2021.

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).)

Long Beach's arguments of res judicata and collateral estoppel are irrelevant to whether Student may file an amended complaint as nothing prevents Long Beach from filing a motion to dismiss issues. 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. All applicable timelines shall be reset as of the date of this order. No further hearing continuances will be granted absent a showing of extraordinary circumstances, as OAH had granted multiple hearing continuances since the case was filed in March 2021, and this case takes precedent over later filed cases. OAH will issue a scheduling order with the new dates.

IT IS SO ORDERED.

Sabrina Kong

Sabrina Kong
Administrative Law Judge
Office of Administrative Hearings