BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

SEQUOIA UNION HIGH SCHOOL DISTRICT.

OAH CASE NUMBER 2023110714

ORDER DENYING MOTION TO AMEND COMPLAINT

DECEMBER 14, 2023

On November 21, 2023, Parent on behalf of Student filed a Due Process Hearing Request, referred to as a complaint, with the Office of Administrative Hearings, naming Sequoia Union High School District. The Office of Administrative Hearings is referred to as OAH. On December 11, 2023, OAH held an expedited prehearing conference. On December 12, 2023, Student filed a Motion to Amend the Due Process Hearing Request and an amended complaint. On December 14, 2023, Sequoia Union filed an opposition.

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 the complaint is not timely. Student's motion to amend was filed after a lengthy expedited prehearing conference was held on December 11, 2023. At the expedited prehearing conference, the undersigned determined that one of the three issues pled as expedited claims involved an expedited claim. Student's amended complaint alleges the same three claims as expedited allegations and adds one new expedited issue. All expedited claims arose from a May 8, 2023, manifestation determination review meeting.

Student's motion to amend states that he filed the amended due process to raise procedural and substantive allegations that resulted from Student's annual IEP team meetings that concluded on December 8, 2023, as well as an issue addressing Sequoia Union's failure to defend their 2021 psychological assessment and functional behavior assessment without undue delay. In the motion to amend, Student does not state that he is amending the complaint to allege a new expedited issue related to the manifestation determination review meeting. Student's motion to amend is misleading because it omits notice than an additional expedited issue is being raised in the amended complaint.

Sequoia Union contends it was confused by Student's motion to amend because it was not clear whether he was requesting to amend claims scheduled for the expedited hearing. Sequioa Union does not object to amending the claims for the non-expedited hearing. Sequoia Union complains that it would be unduly prejudiced if Student were allowed leave to amend the complaint five days before the expedited due process hearing. Sequioa Union asserts that it has already submitted evidence for hearing,

subpoenaed witnesses, has spent time preparing for hearing, and is in the process of preparing for the hearing based on the expedited prehearing conference that was held.

Student's motion to amend is denied because it is not timely and there is no written consent to amendment. Student did not establish a basis to amend the expedited complaint as he represented that he was only amending the non-expedited claims. All dates shall remain on calendar.

Nothing in this Order prevents Student from filing an amended complaint after the expedited due process hearing, to amend the non-expedited claims. Nothing in this Order prevents Student from filing a separate complaint with expedited claims.

IT IS SO ORDERED.

Marlo Nisperos

Marlo Nisperos
Administrative Law Judge
Office of Administrative Hearings