BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

MANHATTAN BEACH UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2015030347

ORDER DENYING MOTION TO AMEND COMPLAINT

On March 5, 2015, Student filed a Due Process Hearing Request, referred to as a complaint, with the Office of Administrative Hearings, naming Manhattan Beach Unified School District. The Office of Administrative Hearings is referred to as OAH. OAH issued a Decision in this matter on July 31, 2015. The parties subsequently appealed OAH's Decision and the Court of Appeal, State of California, Second Appellate District, reversed the Decision and remanded it to OAH for a remedy consistent with its ruling. On December 17, 2019, Student filed a Motion to Amend the initial Due Process Hearing Request and an amended complaint to include a claim that related back to the original complaint and to clarify the remedy sought. Manhattan Beach filed an opposition to Student's Motion to Amend on December 20, 2019. Student filed a reply in support of the Motion to Amend on December 23, 2019.

Generally, 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).)

However, here, Student seeks to amend the complaint after a decision has been issued. Student argues that he should be allowed to amend the complaint because the issues raised in the amended complaint relate back to the issues raised in the initial complaint and were included in the initial complaint. Student also argues the amended complaint makes it clear what additional relief he seeks consistent with the Court of Appeal remand order. Student seeks to amend the initial complaint to include an issue that Manhattan Beach was responsible for Student's education as of June 1, 2014, when his Parents first requested an assessment for special education. Student seeks to add as a remedy reimbursement for the cost of Vista, the nonpublic school he attended from the period of June 1, 2014, through November 26, 2014, when he contends Manhattan Beach was responsible for his education.

Manhattan Beach argues that an amended complaint is not necessary to interpret the Court of Appeal remand order and that Student is improperly attempting to open the door to an issue that he previously dismissed in 2015, prior to the initial due process hearing.

The sole issue in the initial due process hearing was if Manhattan Beach was the local education agency responsible for providing Student with a special education program and services. The Court of Appeal reversed OAH's Decision and determined that Manhattan Beach was responsible for implementing Student's November 10, 2014 individualized education program, referred to as an IEP, including payment of Student's Parents' travel expenses related to Student's placement at the residential treatment

center. The Court of Appeal remanded the matter to OAH to determine appropriate relief in addition to Parents' recovery of travel related expenses. The Court of Appeal noted that the parties disagreed if the November 10, 2014 IEP had been implemented and if Student received the full scope of education and related services he was entitled to in the November 10, 2014 IEP. The Court of Appeal further noted that to the extent that issue remained viable it could be addressed on remand.

Student's argument is not persuasive. This is not a case where the matter was remanded for a new trial in which new issues could be raised or previously dismissed issues could be revived. This matter was remanded to OAH for the explicit purpose of determining a remedy consistent with the Court of Appeal's determination that Manhattan Beach was responsible for implementing Student's November 10, 2014 IEP. This situation is most analogous to a civil court reversal with directions. When an appellate court's reversal is accompanied by directions requiring specific proceedings on remand, those directions are binding on the trial court and must be followed. Any material variance from the directions is unauthorized and void. (*Hampton v. Sup. Ct.* (1952) 38 Cal.2d 652, 655-656.)

Student further argues the Court of Appeal remand order allowed relief on all claims that remained viable. Student argues that he was precluded from refiling the previously dismissed claim against Manhattan Beach for the time period Student was placed in a residential treatment facility with funding from the adoptions assistance program. Student argues collateral estoppel and res judicata barred him from litigating any claims between February 2014 and December 2015. Student argues that it was not until the Court of Appeal issued the remand order that Student could bring the claim that Manhattan Beach was responsible for Student's education from June 1, 2014, the date he alleges his Parents first requested an assessment for special education, until

November 10, 2014, the date of the initial IEP that was the subject of the initial due process hearing and subsequent Court of Appeal reversal.

The issue of which local education agency was responsible for assessing Student from June 1, 2014 until November 10, 2014, is not the same issue as was heard on appeal. The Court of Appeal noted that Student requested reimbursement from Manhattan Beach for his placement at Vista but that was not an issue on appeal. Student also notes in his reply in support of his motion to amend that the Court of Appeal noted that the issue of reimbursement for Vista nonpublic school was not an issue for appeal but argues that nothing in the remand order limits what relief is now available.

Student is correct that the Court of Appeal opened the door to relief beyond Parents' travel expenses to the extent that relief remains viable. However, the Court of Appeal specifically directed OAH to determine a remedy based on its determination that Manhattan Beach was responsible for implementing the November 10, 2014 IEP. The Court of Appeal did not open the door to relief on any issues beyond Manhattan Beach being responsible for implementing the November 10, 2014 IEP. As such, Student's motion to amend is denied. The hearing on remand will proceed as scheduled to determine what, if any, relief Student is entitled to as a result of Manhattan Beach's responsibility to implement the November 10, 2014 IEP.

IT IS SO ORDERED.

DocuSigned by:
Linda Johnson
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DATED: January 8, 2020

Linda Johnson
Administrative Law Judge
Office of Administrative Hearings