BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

ANAHEIM ELEMENTARY SCHOOL DISTRICT.

OAH CASE NUMBER 2020090349

AND

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

ANAHEIM ELEMENTARY SCHOOL DISTRICT.

OAH CASE NUMBER 2020090687

ORDER GRANTING MOTION TO AMEND STUDENT'S COMPLAINT

OCTOBER 6, 2020

On September 10, 2020, Parent one on behalf of Student filed a Due Process Hearing Request, referred to as a complaint, with the Office of Administrative Hearings, naming Anaheim Elementary School District. The Office of Administrative Hearings is referred to as OAH. On September 21, 2020, Parent two on behalf of Student filed a complaint with OAH, naming Anaheim Elementary School District. On October 5, 2020, the complaints of both Parents on behalf of Student were consolidated. Anaheim filed a complaint on September 21, 2020 in OAH case number 2020090678 which was not consolidated with Parents complaints.

On September 18, 2020 Parent one file an amended complaint without a motion to amend or basis for amending the complaint. On September 22, 2020, Anaheim filed a Notice of Insufficiency to Parent one's initial complaint. On September 24, 2020, OAH issued an order denying Parent one's motion to amend complaint. OAH determined that two of the three claims alleged in Parent one's complaint were sufficient and one was insufficient.

On September 30, 2020, Parent one on behalf of Student filed a Motion to Amend the Due Process Hearing Request and an amended complaint. No opposition was received from Anaheim or Parent two.

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 amended complaint filed by Parent one seeks to add additional issues to the complaint. Specifically, the amended compliant raises claims regarding a speech assessment, unexcused absences, placement without consent, and failure to consider independent assessments.

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 consolidated complaint shall be deemed filed on the date of this order. All applicable timelines shall be reset as of the date of this order. (34 C.F.R. § 300.510(c); Ed. Code, § 56501.5, subd. (d).) OAH will issue a scheduling order with the new dates.

ORDER

1. Parent one's motion to amend Student's complaint in Case No. 2020090349 is granted.

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

3. The dates in the consolidated matter are vacated and a new scheduling order will be issued.

4. All applicable timelines shall be reset as of the date of this order.

IT IS SO ORDERED.

DocuSigned by:
Marlo Nisperos
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Marlo Nisperos
Administrative Law Judge
Office of Administrative Hearings