BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: ETIWANDA SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT,	OAH Case No. 2018030816
PARENT ON BEHALF OF STUDENT, v. ETIWANDA SCHOOL DISTRICT.	OAH Case No. 2018030111 ORDER GRANTING MOTION TO AMEND COMPLAINT

On March 1, 2018, Student filed a Due Process Hearing Request (complaint) with the Office of Administrative Hearings, naming Etiwanda School District. On May 1, 2018, Student filed a Motion to Amend the Due Process Hearing Request (amended complaint). District filed an opposition to the request on May 1, 2018, claiming Student's request to amend was untimely, and Student's proposed amended complaint did not relate to the issues in the consolidated matters.

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).)

District contends Student's request to amend her complaint is untimely. The due process hearing in this matter is scheduled for May 14, 2018. Student filed her request to amend her complaint on May 1, 2018, which is more than five days prior to hearing. Thusly, Student's request is timely.

District contends Student's amended complaint is not related to the consolidated issues of the parties, and was filed in bad faith to unreasonably extend the statutory timeline. Student's amended complaint contains new issues claiming denial of a free appropriate public education which allegedly occurred prior to the issues contained in Student's initial

March 1, 2018 complaint. Although the new issues are unrelated to the existing consolidated matters, they nevertheless represent Student's additional contentions regarding denial of FAPE which allegedly occurred within the operative two-year statute of limitations applicable in the consolidated matters. The fact that Student waited two full months to request amendment does not automatically constitute bad faith. Nor does any residual benefit to Student derived from the extension of timelines independently constitute bad faith. The issue of bad faith and sanctions may be revisited, by both or either party, upon resolution of the consolidated matters.

The motion to amend 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. As the consolidated matters have been previously continued, no further continuances shall be granted without good cause. Further, Student's failure to obtain counsel available for the scheduled hearing dates shall not be considered good cause for additional delay of hearing.

IT IS SO ORDERED.

DATE: May 2, 2018

DocuSigned by:
Judith Pasewark
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JUDITH PASEWARK
Administrative Law Judge
Office of Administrative Hearings