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 FOLLOWING PREHEARING CONFERENCE FOR HEARING BY VIDEOCONFERENCE GRANTING MOTION TO AMEND NON-EXPEDITED COMPLAINT

DECEMBER 29, 2023

On December 29, 2023, Administrative Law Judge Marlo Nisperos, Office of Administrative Hearings, held a prehearing conference by videoconference. The Administrative Law Judge is called an ALJ. The Office of Administrative Hearings is called OAH. The prehearing conference is called a PHC.

Evan Goldsen, Attorney at Law, appeared on behalf of Student. Eliza McArthur and Justin Manganiello, Attorneys at Law, appeared on behalf of Sequoia Union High School District. The PHC was recorded. Based upon discussion with the parties, the ALJ issues the following order:

MOTION

On December 26, 2023, Student filed a Motion to Amend the Non-Expedited Request for Due Process Hearing and an amended complaint. Sequoia Union does not object to Student's motion.

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 was filed more than five days prior to the due process hearing and is unopposed. Therefore, it is timely and is granted. The amended complaint shall be deemed filed on the date of this order. No expedited issues pursuant to title 20 U.S.C. Section 1415(k) are alleged or adjusted in the amended complaint. In the amended complaint, Student listed one expedited issue that was heard at an expedited due process hearing on December 19, through December 21, 2023. Student stated he intends to withdraw or dismiss the expedited allegation when a final decision is issued. However, expedited claims must be litigated on an expedited timeframe. Therefore, the motion to amend is granted; however, the expedited issue in the amended complaint is stricken. As noted, the expedited claim is currently pending decision. All applicable timelines shall be reset as of the date of this order. OAH will issue a scheduling order with the new dates.

SETTLEMENT

The parties are encouraged to continue working together to reach an agreement before the due process hearing. The parties shall inform OAH in writing immediately if they reach a settlement or otherwise resolve the dispute before the scheduled hearing. In addition, if a settlement is reached within five days of the scheduled start of the due process hearing, the parties shall also inform OAH of the settlement by telephone at (916) 263-0880. At the same time, the parties should send the signature page of the signed agreement or a letter withdrawing the case to OAH by visiting OAH Secure e-file at https://www.applications.dgs.ca.gov/oah/oahsftweb.

If a full and final written settlement agreement is reached after 4:00 PM the day prior to hearing, the parties shall leave a voicemail message regarding the settlement at (916) 274-6035. The parties should also leave contact information such as cellular phone numbers of each party or counsel for each party.

Dates for hearing will not be cancelled until the letter of withdrawal or signature page of the signed agreement has been received and processed by OAH. If an agreement in principle is reached, the parties should plan to attend the scheduled hearing unless different arrangements have been agreed upon by the assigned ALJ. The assigned ALJ will check for messages before the hearing.

If the matter settles subject to board approval, in addition to a signed copy of the signature page of the settlement agreement, the parties shall provide the date of the next board meeting. The hearing dates will not be cancelled without this information.

FAILURE TO COMPLY

The failure to comply with this Order may result in the exclusion of evidence or other sanctions.

ORDER INCLUDES ALL RULINGS

This Order includes all rulings made at the prehearing conference. Any discussion and conversation not referenced in this Order is not binding on the ALJ conducting the hearing and may not be relied upon by the parties. The parties should be aware that, at hearing, the ALJ conducting the hearing has discretion to reconsider any part of this Order.

IT IS SO ORDERED.

Marlo Nisperos

Marlo Nisperos
Administrative Law Judge
Office of Administrative Hearings