

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

EL CENTRO ELEMENTARY SCHOOL
DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NOS. 2012100380 and
2012080113

ORDER GRANTING MOTION TO
AMEND COMPLAINT

On October 15, the Office of Administrative Hearings (OAH) issued an order consolidating case numbers 2012100380 (District Complaint) and 2012080113 (Student Complaint) in this matter. Currently pending in the consolidated cases is a due process hearing set for January 7 – 10 and 14, 15, 2013.

On December 28, 2012, Student, through counsel, filed with OAH a proposed Amended Due Process Complaint in case number 2012080113. OAH will treat this filing as a request to file an amended pleading in the matter. On December 31, 2012, counsel for the El Centro Elementary School District filed with OAH an opposition to the request, complaining about a delay in the hearing of the consolidated matters.

Despite the District's objection, an amended complaint in a special education administrative due process proceeding 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).)

Here, the motion to amend is timely and is granted. The Amended Due Process Complaint in case number 2012080113 shall be deemed filed on the date of this order. All applicable timelines shall be reset as of the date of this order. OAH will issue a scheduling order in this consolidated matter with the new dates.

IT IS SO ORDERED.

Dated: January 02, 2013

/s/

TIMOTHY L . NEWLOVE
Presiding Administrative Law Judge
Office of Administrative Hearings