

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

OAH CASE NO. 2014030127

v.

SANTA ROSA CITY SCHOOLS,

SANTA ROSA CITY SCHOOLS,

OAH CASE NO. 2014040994

v.

PARENT ON BEHALF OF STUDENT.

ORDER GRANTING MOTION TO
AMEND AND DENYING MOTION FOR
STAY PUT

On May 7, 2014, Student filed a letter “complaint in addition to” Student’s original complaint filed in OAH case number 2014030127 in order to raise additional matters arising after Student’s original complaint was filed. The letter is interpreted to be a request to file an amendment to Student’s complaint. The amendment states four problems. The first problem is alleged to be Districts’ failure to follow stay put doctrine and requests placement in a nonpublic school as Student’s stay put placement. The first problem in the requested amendment is interpreted to be a request for stay put.

On May 7, 2014, District filed a response. District did not oppose the amendment. District opposed the motion for stay put on the grounds that the last agreed upon and implemented IEP is dated February 16, 2012, Student has not attended the nonpublic school placement provided by that IEP since February 28, 2012, Student is no longer eligible to enroll in that school because the school does not accept students her age, and District has offered an appropriate alternative placement.

On May 7, 2014, Student filed a “clarification of second due process complaint” essentially withdrawing her motion for stay put because, among other things, Student cannot return to the nonpublic school that would have been stay put under the last agreed upon and implemented IEP because Student is 20 years old and above the age accepted for enrollment at that school. Student avers, since the school year is almost over, there is no opportunity for Student to enroll in a nonpublic school before the end of the school year and there is no nonpublic school identified by District or Student that offers a comparable program. Accordingly, Student asks to defer the issue of stay put to such time as a school has been

identified. The motion for stay put is deemed to have been withdrawn and is denied on that basis.

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).)¹ 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 unopposed amendment 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. OAH will issue a scheduling order with the new dates.

IT IS SO ORDERED.

DATE: May 12, 2014

/s/

MARIAN H. TULLY
Administrative Law Judge
Office of Administrative Hearings

¹ All references to the Code of Federal Regulations are to the 2006 edition, unless otherwise indicated.