

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT AND RENAISSANCE ARTS
ACADEMY.

OAH CASE NO. 2013110414

ORDER DENYING MOTION TO FILE
SECOND AMENDED COMPLAINT:
AMENDED COMPLAINT DEEMED
FILED AS OF DATE OF THIS ORDER

On November 13, 2013, Student filed a Due Process Hearing Request (complaint), naming Los Angeles Unified School District (District) and Renaissance Arts Academy, a Charter School (Charter). At issue was whether District and Charter failed to provide an appropriate program for Student from September 1, 2012 through the end of the extended school year in 2013, and whether District failed to provide an appropriate program from August 13, 2013, through the date the complaint was filed. Charter filed a Response to the complaint. On November 25, 2013, Student filed a notice withdrawing the complaint as against Charter. On December 2, 2013, OAH issued an Order of Dismissal of a Party.

On March 31, 2014, Student filed a Motion for Leave to Amend Complaint and amended complaint naming District and Charter. The issues alleged in the amended complaint were whether Student's April 2012 and April 2013 individualized education programs (IEP's) were calculated to provide Student meaningful educational benefit, and whether District failed to consider assessments and parental concerns at an IEP team meeting held September 18, 2013 and implement accommodations provided in the September 2013 IEP. On April 4, 2014, OAH granted leave to amend, and deemed the amended complaint filed April 4, 2014. Thereafter OAH issued a scheduling order setting a due process hearing on May 29, 2014.

On May 8, 2014, Student filed a second motion to amend complaint (second amended complaint) on the grounds Charter was not served with the amended complaint. The proposed second amended complaint was the same as the amended complaint. On May 12, 2014, Charter filed a Notice of Representation. Neither District nor Charter opposed the second request to amend the complaint.

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).)

In this case, the proposed second amended complaint is the same as the amended complaint but for the failure to serve the amended complaint. Accordingly, the motion to file a second amended complaint is denied. The amended complaint is deemed filed and served 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 14, 2014

/s/

MARIAN H. TULLY
Administrative Law Judge
Office of Administrative Hearings

¹ All statutory citations are to Title 20 United States Code unless otherwise indicated.