

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:	
PARENT ON BEHALF OF STUDENT,	OAH CASE NO. 2014050208
v.	
DOWNEY UNIFIED SCHOOL DISTRICT,	
DOWNEY UNIFIED SCHOOL DISTRICT,	OAH CASE NO. 2014041256
v.	ORDER GRANTING DISTRICT LEAVE TO FILE FIRST AMENDED DUE PROCESS HEARING REQUEST
PARENT ON BEHALF OF STUDENT.	

On April 28, 2014, Downey Unified School District (District) filed a due process hearing request (complaint), naming Parent on behalf of Student, Office of Administrative Hearings (OAH) case number 2014041256 (District's Case).

On May 02, 2014, Parent on behalf of Student filed a complaint, naming District, OAH case number 2014050208 (Student's Case). The cases were consolidated by order dated May 7, 2014.

On May 30, 2014, District filed a proposed first amended complaint in District's Case, which will be treated as a motion for leave to amend District's complaint. No opposition was received from Student.

APPLICABLE LAW

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).)

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

The motion to amend is timely and is granted. District's original complaint seeks a determination that Student's April 22, 2014, individualized education plan (IEP) offered Student a free appropriate public education (FAPE). Student's complaint seeks a determination, among multiple issues that include challenging District's assessments, that District denied Student a FAPE by failing to offer an educational program to address Student's unique needs in the 2011-2012, 2012-2013, 2013-2014 and 2014-2015 school years. The District's amended complaint adds a claim that the assessments conducted by District to prepare for the April 2014 IEP were appropriate, in response to Student's complaint and a request by Student for independent educational evaluations. These issues will involve the same witnesses and evidence as the current consolidated matters.

The amended complaint shall be deemed filed on the date of this order.

As currently scheduled, the existing prehearing conference and hearing dates allow the parties ample time to prepare for the additional issues raised by District, such that even if the decision timelines are reset, there is no need to vacate the current dates. In the prior order granting consolidation, the applicable timelines for the issuance of a decision were set based on the filing of Student's case, and this order remains in force. Accordingly, all current hearing dates in the consolidated cases are confirmed.

IT IS SO ORDERED.

DATE: June 6, 2014

/s/

ALEXA J. HOHENSEE
Administrative Law Judge
Office of Administrative Hearings