

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT

OAH CASE NO. 2014060318

ORDER DENYING MOTION TO
AMEND TO ADD PARTY WITHOUT
PREJUDICE

On June 4, 2014, Student filed a request for a due process hearing (complaint)¹ naming Los Angeles Unified School District (District) as the sole respondent. The complaint alleged that in May 2013, Magnolia Science Academy had reevaluated Student and determined her to be no longer eligible for special education and related services. The complaint did not identify what type of entity Magnolia Science Academy is. The complaint contained a proof of service indicating it had been served on District on June 4, 2014.

On June 12, 2014, Student filed a Notice of Representation stating that she was represented by counsel, and that all further communications should be transmitted to and from counsel's office.

On June 19, 2014, Student filed a second complaint which was identical to the original complaint except that it named Magnolia Science Academy as an additional respondent. The document did not indicate it originated from Student's counsel's office. The allegations were not altered. The proof of service was not altered, and thus indicated only that it had been served as originally filed, on June 4, 2014, on District only.

The filing is treated as a motion to amend the complaint to add Magnolia Science Academy as a party and is denied without prejudice, for the reasons explained below.

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).) 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 A request for a due process hearing under Education Code section 56502 is the due process complaint notice required under Title 20 United States Code section 1415(b)(7)(A).

A public education agency involved in any decisions regarding a student may be involved in a due process hearing. (Ed. Code, § 56501, subd. (a).) A public education agency is defined as any public agency, including a charter school, responsible for providing special education or related services. (Ed. Code, §§ 56500, 56028.5.)

Here, Student alleged that Magnolia Science Academy was involved in decisions regarding her education. However, she did not indicate that Magnolia Science Academy is a public agency such as a charter school, who may therefore be added as a party to this due process proceeding. Nor did Student show adequate proof of service of the motion to amend on either District or Magnolia Science Academy. Finally, the motion to amend appears to have originated from parent rather than from counsel's office, contrary to the Notice of Representation. The motion to amend is therefore denied without prejudice. Should Student wish to amend the original complaint, her counsel may file a new complaint adding Magnolia Science Academy as a party that alleges the basis of jurisdiction over Magnolia Science Academy, and that contains adequate proof of service on all respondents.

IT IS SO ORDERED.

DATE: July 1, 2014

/s/

JUNE R. LEHRMAN
Administrative Law Judge
Office of Administrative Hearings