

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

PALOS VERDES PENINSULA UNIFIED
SCHOOL DISTRICT.

OAH CASE NO. 2014051221

ORDER GRANTING MOTION TO
AMEND COMPLAINT AND
IDENTIFYING EXPEDITED ISSUE

On May 27, 2014, Student filed a Due Process Hearing Request (complaint) with the Office of Administrative Hearings, naming Palos Verdes Peninsula Unified School District (Palos Verdes). On August 1, 2014, Student filed a Motion to Amend the Due Process Hearing Request (amended complaint). On August 11, 2014, Student filed a Notice of Errata and Correction to Petitioner's Motion to Amend and Amended Due Process Complaint. The Notice of Errata contained a list of proposed resolutions that had been omitted from Student's amended complaint. On August 11, 2014, Palos Verdes filed a Response to Student's Amended Complaint, but did not oppose Student's motion to amend.¹

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).)² Filing an amended complaint restarts the applicable timelines for the due process hearing. (20 U.S.C. §1415(c)(2)(E)(ii).)

¹ On August 11, 2014, Palos Verdes also filed a Notice of Insufficiency (NOI) to Student's amended complaint. The amended complaint had not yet been deemed filed by OAH. The NOI was premature and will not be ruled upon. If Palos Verdes seeks a determination regarding the sufficiency of Student's amended complaint, it may file a NOI after the amended complaint is deemed filed.

² All statutory citations are to title 20 United States Code unless otherwise indicated.

DISCUSSION

The motion to amend is timely and is granted. Student's amended complaint includes an expedited issue. Specifically, Issue 3 alleges that Palos Verdes removed Student from her educational placement for disciplinary reasons beyond the days permitted under both state and federal law.

A similar issue was alleged in Student's original complaint. The parties participated in a telephonic prehearing conference on July 14, 2014, where they specifically addressed the expedited issue. Administrative Law Judge Krikorian issued an order that day confirming the parties' stipulation that Student could raise disciplinary claims for the purpose of establishing a denial of a free appropriate public education, but that any specific claims for remedies under title 20 United States Code section 1415 (k) were dismissed. Judge Krikorian ordered that the matter would proceed to hearing on the non-expedited issues only. The parties' prior stipulation, however, was to the original complaint and will not be imputed to the amended complaint.

The amended complaint shall include the proposed resolutions identified in the Notice of Errata and 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 dual scheduling order with the new dates for both the expedited and non-expedited issues.

IT IS SO ORDERED.

DATE: August 12, 2014

/s/

JOY REDMON

Administrative Law Judge

Office of Administrative Hearings