

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

DESERT SANDS UNIFIED SCHOOL
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT and
STUDENT, INDIVIDUALLY.

OAH Case No. 2014051076

DESERT SANDS UNIFIED SCHOOL
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT and
STUDENT, INDIVIDUALLY.

OAH Case No. 2014031057

ORDER GRANTING MOTION TO
AMEND COMPLAINT

On March 27, 2014, the Desert Sands Unified School District filed a Due Process Hearing Request, naming Parent on behalf of Student, which was assigned Case Number 2014031057. On May 16, 2014, District filed a second Due Process Hearing Request, naming Parent on behalf of Student, which was assigned Case Number 2014051076. On June 6, 2014, the Office of Administrative Hearings consolidated OAH Case Number 2014051076 and OAH Case Number 2014031057. On August 19, 2014, District filed a Motion to Amend the Due Process Hearing Request for the consolidated cases. The basis of District's Motion to Amend is that Student reached the age of majority on July 11, 2014, and he should therefore be named individually, along with his Parent, to the consolidated matter. No opposition was received from Parent or Student.

APPLICABLE LAW

Under federal and California special education law, when a student eligible for special education reaches the age of 18 years, the special education rights previously held by the parent transfer to the student. (34 C.F.R. § 300.520(a)(ii)(2006); Ed. Code, § 56041.5.) Specifically, Education Code section 56041.5 provides:

When an individual with exceptional needs reaches the age of 18, with the exception of an individual who has been determined to be incompetent under

state law, the local educational agency shall provide any notice of procedural safeguards required by this part to both the individual and the parents of the individual. All other rights accorded to a parent under this part shall transfer to the individual with exceptional needs. The local educational agency shall notify the individual and the parent of the transfer of rights.

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).)

DISCUSSION AND ORDER

District's motion to amend 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: August 26, 2014

/s/

PAUL H. KAMOROFF
Administrative Law Judge
Office of Administrative Hearings