

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

CAPISTRANO UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2014100253

ORDER GRANTING MOTION TO
AMEND COMPLAINT

On October 2, 2014, Student filed a Due Process Hearing Request (complaint), naming the Capistrano Unified School District. On October 15, 2014, Student filed a second complaint. In her cover letter regarding this filing, Student informed that her initial complaint was inadvertently filed as it was only a rough draft of what Student intended to file as her complaint. Student requested that the second complaint be substituted for the original complaint. The Office of Administrative Hearings has treated Student's second complaint as a motion to amend her original filing.

APPLICABLE LAW, DISCUSSION AND ORDER

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.

Student'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.²

IT IS SO ORDERED.

DATE: October 17, 2014

/s/

DARRELL LEPKOWSKY
Administrative Law Judge
Office of Administrative Hearings

² Since OAH is granting Student's Motion to Amend, Capistrano's Motion to Dismiss portions of Student's original complaint and its Notice of Insufficiency, both filed on October 13, 2014, are moot.