

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

SAN DIEGUITO UNION HIGH SCHOOL
DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH Case No. 2014070451

ORDER GRANTING MOTION TO
AMEND COMPLAINT

On July 2, 2014, the San Dieguito Union High School District filed a due process hearing request (complaint), naming Student's parents on behalf of Student. On October 23, 2014, San Dieguito filed a motion to amend the complaint. On October 28, 2014, Student filed an opposition to the motion. On October 28, 2014, San Dieguito filed a reply.

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).)

San Dieguito's initial complaint alleged one issue – did the proposed individualized education program dated January 21, March 21, and April 18, 2014, offer Student a free appropriate public education in the least restrictive environment? The due process hearing is currently set to begin on November 12, 2014.

While that case was pending, Student disagreed with San Dieguito's assessment and requested an independent educational evaluation. On October 23, 2014, San Dieguito filed a motion to amend the complaint to add a second issue – was San Dieguito's March 18, 2014 psychological assessment appropriate?

Student's opposes the motion to amend. Student argues that the motion to amend should be denied because San Dieguito took too long to file for due process after denying Student's request for an independent educational evaluation.

Student's argument is premature. While that length of time may be an issue Student can raise as a defense at hearing, it is not a basis to deny the motion for leave to amend. (See

J.P. v. Ripon Unified School District (E.D.Cal., April 15, 2009, No. 2:07-cv-02084-MCE-DAD) 2009 WL 1034993.)

The motion for leave 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: October 29, 2014

/s/

SUSAN RUFF

Administrative Law Judge

Office of Administrative Hearings