

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

MONTEBELLO UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2014110717

ORDER DENYING MOTION TO
AMEND COMPLAINT

On November 17, 2014, Parent on behalf of Student filed a Due Process Hearing Request (complaint), naming Montebello Unified School District. On January 23, 2015, Student filed an Amended Complaint (amended complaint). No opposition was received from District.

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).)

The motion to amend is denied. The Student's amended complaint does not assert any issues or remedies that are not already asserted in the initial complaint. The initial complaint consists of two pages (not including exhibits) and is entitled "Complaint." The amended complaint also consists of two pages and is entitled "Amended Complaint Reading/Math."

The bodies of both complaints are exactly the same, word-for-word, except for the addition of two words in the sentence which reads: "[Student} has had the same reading *and math* goals since eighth grade and hasn't made little progress. [sic.]" The issue (alleged failure to provide needed reading program) and the proposed remedy (provide Reading 180 program) is the same. The further assertion that Student also failed to meet her math goals is, at best, evidentiary since the amended complaint continues to state that both the issue and remedy concerns the Reading 180 program. Since the proposed amended complaint does not actually amend the initial complaint, there is no basis for the request to amend.

¹ All statutory citations are to title 20 United States Code unless otherwise indicated.

ORDER

1. The Student's request to amend the complaint is denied.
2. The mediation, prehearing conference, and due process hearing dates remain as presently scheduled.

DATE: February 4, 2015

/s/

CLIFFORD H. WOOSLEY
Administrative Law Judge
Office of Administrative Hearings