

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

v.

COLTON JOINT UNIFIED SCHOOL
DISTRICT,

OAH Case No. 2015090427

COLTON JOINT UNIFIED SCHOOL
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH Case No. 2015080079

ORDER GRANTING STUDENT'S
MOTION TO AMEND COMPLAINT,
ORDER GRANTING DISMISSAL OF
DISTRICT'S COMPLAINT, AND
ORDER DENYING DISTRICT'S
MOTION TO CONTINUE, AS MOOT

On August 4, 2015, Colton Joint Unified School District filed a due process complaint (OAH No. 2015080079) against Student. On September 4, 2015, Student filed a due process complaint naming District (OAH No. 2015090427), moving to consolidate the complaints. On September 16, 2015, the Office of Administrative Hearings ordered these matters consolidated, identifying Student's case as the primary case, controlling the 45-day timeline. A scheduling order issued, setting the consolidated matters for hearing on October 29, 2015. At the prehearing conference of October 23, 2015, ALJ Marian Tully granted District's unopposed request for continuance, setting the PHC for November 9, 2015, and the hearing for November 18 and 19, 2015.

On October 27, 2015, District filed a motion to continue the hearing because a crucial District witness is unexpectedly unavailable for the hearing dates. On November 3, 2015, Student filed a motion to amend, providing a proposed first amended complaint. On the same date, District filed notice of nonopposition to Student's motion to amend. On November 4, 2015, District filed a request to withdraw its complaint, noting the issues are appropriately addressed in Student's pleading.

Student's Motion to Amend Complaint

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).)

The motion to amend is timely. Student adds four issues to his due process requests. These issues involve the same general set of facts asserted in Student's initial due process and, accordingly, are appropriately included in the same complaint, as acknowledged by District in not opposing the amended pleading. Student's motion to amend is granted.

District's Request to Withdrawal Is Granted

District's request to withdrawal its complaint, OAH No. 2015080079, is granted. This matter will proceed on the Student's complaint only.

District's Motion for Continuance Is Denied as Moot

Since Student's motion to amend is granted and all dates are vacated, a new scheduling order will issue. The unavailability of District's witness, which formed the basis of its request for continuance, is no longer an issue. Accordingly, District's motion for continuance is denied, as moot.

ORDER

1. Student's motion to amend is granted. All applicable timelines shall be reset as of the date of this order. OAH will issue a scheduling order with the new dates.
2. District's request to dismiss its complaint (OAH No. 2015080079) is granted. This matter shall proceed on Student's case, only (OAH Case No. 2015090427).
3. District's motion to continue the hearing date is denied as moot, since new dates are being scheduled as a result of Student's amended complaint.

IT IS SO ORDERED.

DATE: November 06, 2015

/s/

CLIFFORD H. WOOSLEY
Administrative Law Judge
Office of Administrative Hearings