

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SWEETWATER UNION HIGH SCHOOL
DISTRICT AND SAN DIEGO COUNTY
OFFICE OF EDUCATION.

OAH Case No. 2015110791

ORDER GRANTING MOTION TO
AMEND COMPLAINT, AND
DENYING REQUEST TO FORWARD
HEARING DATES

On November 17, 2015, Student filed a Due Process Hearing Request (complaint) with the Office of Administrative Hearings, naming Sweetwater Union High School District. On December 14, 2015, Student filed a Motion to Amend the Due Process Hearing Request (amended complaint) to add San Diego County Office of Education as party, and also requested that OAH keep the currently set mediation, prehearing conference and hearing dates. On December 17, 2015, District filed an opposition to Student's request to amend the complaint if the currently set dates were to remain. No opposition was received from San Diego County.

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 and is granted, and San Diego County Office of Education added as a party. However, as to Student's request to maintain the presently set dates, Student did not provide any legal authority to justify this request as the Individuals with Disabilities Education Act, and implementing regulations, are clear that the filing of an amended complaint restarts all applicable timelines, including the 30 day resolution session. (20 U.S.C. §1415(c)(2)(E)(ii); 34 C.F.R. § 300.508(d)(4) (2006).) Therefore, the amended

complaint shall be deemed filed on the date of this order. Further, 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: December 18, 2015

/s/

PETER PAUL CASTILLO
Presiding Administrative Law Judge
Office of Administrative Hearings