

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2018110471
v.	
MONROVIA UNIFIED SCHOOL DISTRICT,	
MONROVIA UNIFIED SCHOOL DISTRICT,	OAH Case No. 2019010798
v.	ORDER GRANTING MOTION TO AMEND COMPLAINT AND DENYING MOTION TO CONTINUE ¹
PARENT ON BEHALF OF STUDENT.	

On November 13, 2018, Student filed a Due Process Hearing Request (complaint) with the Office of Administrative Hearings, naming Monrovia Unified School District. On March 12, 2019, Student filed a Motion to Amend the Due Process Hearing Request (amended complaint). Monrovia filed an opposition on March 14, 2019. Student filed a response to Monrovia's opposition on March 14, 2019, and Monrovia filed a supplemental opposition on March 15, 2019.

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).)

Here, Student filed his motion to amend five days prior to the due process hearing. Although Student's motion was not filed three days prior to the date of the prehearing conference of March 11, 2019, Student established good cause for the delay as he did not

¹ Student also filed a Motion to Continue on March 12, 2019. That request is now moot as OAH will reset the timelines and issue a new scheduling order.

receive the records he requested from Monrovia until March 6, 2019, and even then he only received part of the records. Monrovia argues it sent the records to Student's counsel after it received the records request on November 9, 2018. However, Monrovia was not able to produce the green receipt from the post office as proof it sent the records. Monrovia further argues Student must have had the records when he drafted a complaint for a previous due process hearing request he cited to specific documents and included page numbers therefore he must have received the records Monrovia previously sent. Monrovia also argues it will be prejudiced if the motion to amend is granted as it has prepared for hearing, incurred costs, and arranged for substitute teachers and schedule changes. Monrovia's argument is not persuasive. Student's counsel submitted a declaration signed under penalty of perjury that he did not receive the records. Any expense Monrovia has occurred is outweighed by the prejudice to Student in not receiving the records.

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.

IT IS SO ORDERED.

DATE: March 15, 2019

DocuSigned by:

Linda Johnson

LINDA JOHNSON

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Administrative Law Judge
Office of Administrative Hearings