

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
POWAY UNIFIED SCHOOL DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NUMBER 2021060287

ORDER DENYING MOTION TO AMEND COMPLAINT

OCTOBER 27, 2021

On June 7, 2021, Poway Unified School District filed a due process hearing request, called complaint, with the Office of Administrative Hearings, referred to as OAH, naming Student as respondent. OAH set the due process hearing to begin June 29, 2021.

On June 16, 2021, OAH granted the parties' motion to continue the due process hearing and continued it to September 14, 2021. On August 31, 2021, OAH granted a second continuance and set the due process hearing for November 16, 2021.

On October 21, 2021, Poway filed a motion to amend its complaint and a first amended complaint. No response was received by Student to Poway's motion to amend.

An amended complaint may be filed when the other party consents in writing and is given the opportunity to resolve the complaint through a resolution session, or when the hearing officer grants permission. The hearing officer may grant permission at any time more than five days before 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).)

Poway seeks to amend its complaint to address issues raised by Student in his September 24, 2021 request for complaint investigation with the California Department of Education. Poway erroneously claims that its complaint is consolidated with the California Department of Education compliance complaint. However, OAH does not adjudicate California Department of Education compliance complaints. Nonetheless, Poway requests leave to amend its complaint so that it may include issues raised by Student's compliance complaint because the same witnesses and parties will be appearing for that matter on November 16, 2021. Poway's complaint has one issue, if its educationally related mental health assessment is legally complaint. Poway requests to add two more issues; if Poway failed to timely provide an assistive technology assessment and independent educational evaluation of Student's choosing. OAH does not have jurisdiction to determine these issues in a district filed case.

Accordingly, Poway's motion for leave to amend its complaint is denied.

IT IS SO ORDERED.

A handwritten signature in cursive script that reads "Cynthia Fritz".

Cynthia Fritz

Administrative Law Judge

Office of Administrative Hearings