

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

IN THE MATTER OF:  
PARENTS ON BEHALF OF STUDENT,

and

DOWNEY UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021040841

OAH CASE NUMBER 2021080311

ORDER NUNC PRO TUNC GRANTING MOTION TO  
AMEND COMPLAINT

NOVEMBER 02, 2021

On October 25, 2021, Student filed a Motion to Amend the Due Process Hearing Request and filed an amended complaint with the Office of Administrative Hearings on October 22, 2021. The Office of Administrative Hearings is referred to as OAH. Downey Unified School District did not oppose the motion.

In anticipation of Student filing the motion to amend, at the October 18, 2021 prehearing conference, the parties orally waived the statutory timelines, including the holding of another resolution session, due to the fact that Student was only amending

dates to conform to Downey Unified's amendment to its due process complaint. The motion was granted on October 28, 2021, and the timelines remained the same.

On November 1, 2021, a second prehearing conference was held. At the prehearing conference the Administrative Law Judge, referred to as the ALJ, advised the parties that OAH needed a written stipulation to confirm the waiver of the statutory timelines. Counsel advised the ALJ that the parties were very close to completing a settlement and would need additional time. Therefore the parties declined to waive the resolution period.

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).)

The motion to amend was filed timely and is granted. The amended complaint shall be deemed filed as of October 28, 2021, and all applicable timelines shall be reset as of October 28, 2021. OAH will issue a scheduling order with the new dates.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "Brian Krikorian", written in a cursive style.

Brian Krikorian

Administrative Law Judge

Office of Administrative Hearings