

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

ETIWANDA SCHOOL DISTRICT.
OAH CASE NUMBER 2021070856

ORDER DENYING MOTION TO AMEND COMPLAINT

JANUARY 04, 2022

On July 27, 2021, Student filed a Due Process Hearing Request, referred to as a complaint, with the Office of Administrative Hearings, naming Etiwanda School District. The Office of Administrative Hearings is referred to as OAH. On January 3, 2022, Student filed a Motion to Amend the Due Process Hearing Request and an amended complaint. On January 4, 2022, Etiwanda filed a notice of non-opposition.

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).)

Student filed his complaint in July 2021 and OAH has already granted a continuance request to allow the parties to mediate. OAH set the matter for hearing on a date six months from the original filing date. Granting leave to amend effectively serves as a further continuance as an amendment restarts the applicable timelines for resolution sessions and due process hearings. Secondary continuances require a showing of good cause and are disfavored. (Ed. Code, §§ 56505, subd. (f)(3); Cal. Rules of Court, rule 3.1332(c).)

Student's complaint alleges issues ranging from Etiwanda's November 1, 2018 psychoeducational assessment through the end of the 2020-2021 school year. Student's proposed amended complaint alleges separate issues pertaining to the 2021-2022 school year, which can be tried separately. OAH has discretion to deny the motion to amend. OAH favors prompt disposition of matters to provide timely resolution to issues regarding students' receipt of a FAPE. Further, over the passage of time, witnesses to once current events become unavailable and their memories fade. Moreover, the law does not require Student to bring all claims in a single complaint and he will not be prejudiced by doing so.

Therefore, the motion to amend is denied. All dates shall remain on calendar.

IT IS SO ORDERED.

Cole Dalton

Cole Dalton

Administrative Law Judge

Office of Administrative Hearings