

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

PLEASANTON UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021080878

ORDER GRANTING MOTION TO AMEND COMPLAINT

JANUARY 07, 2022

On August 27, 2021, Student filed a due process hearing request, referred to as a complaint, with the Office of Administrative Hearings, naming Pleasanton Unified School District. The Office of Administrative Hearings is referred to as OAH. Student's complaint states issues regarding the April 20, 2021 individualized education program, referred to as an IEP, and Pleasanton's alleged failure to conduct an IEP team meeting in August 2021. OAH scheduled the due process hearing for October 19, 20, and 21, 2021.

On September 22, 2021, OAH granted Student's request to file a first amended complaint, which added issues regarding a 2021 vision assessment, independent educational evaluations granted on June 4, 2021, and a September 10, 2021 IEP amendment of the April 20, 2021 IEP. OAH rescheduled the due process hearing for November 16-18, 2021.

On October 26, 2021, OAH granted Student's request to file a second amended complaint, which added issues regarding an October 14, 2021 IEP amendment changing Student's nonpublic school placement. OAH schedule due process hearing dates for December 28, 29, and 30, 2021. On November 22, 2021, OAH granted the parties joint request for continuance and scheduled a second mediation for January 11, 2022 and reset the hearing for February 1, 2, and 3, 2022.

On January 4, 2022, Student filed a motion for leave to file a third amended complaint, seeking to maintain the February 2022 hearing dates. Student's proposed third amended complaint adds issues regarding Student's 30-day IEP held on November 17, 2021 to review Student's nonpublic school placement changed by the October 14, 2021 IEP amendment. Student's third amended complaint references but does not state issues relating to the December 13, 2021 annual IEP team meeting.

On January 6, 2022, Pleasanton filed a notice of non-opposition asking OAH to reset hearing dates as Student's third amended complaint states three new issues requiring new IEP team members from the nonpublic school to testify.

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).)

Amendments effectively continue cases because of the timelines being reset. Timelines, here, have been reset for two prior amendments and the parties' joint stipulation to set a second mediation and continue hearing dates. Nonetheless,

Student's requested amendments have been timely resulting in a matter pending approximately four-and-one-half months. Moreover, Student's progress, discussed at the November 2021 IEP directly relates to his nonpublic school placement arising from the October 2021 IEP, issues appropriately heard in the same hearing.

OAH favors prompt disposition of matters to provide timely resolution to issues regarding students' receipt of a FAPE. Given that the law does not require a student to bring all claims in a single complaint, any further requests for amendment will be disfavored.

The motion to amend was filed more than five days prior to the due process hearing. The amended complaint shall be deemed filed on the date of this order. The mediation scheduled for January 11, 2022, remains on calendar unless cancelled by a party. (34 C.F.R. § 300.510(c); Ed. Code, § 56501.5, subd. (d).) OAH will issue a scheduling order with new prehearing conference and hearing dates.

IT IS SO ORDERED.

Cole Dalton

Cole Dalton

Administrative Law Judge

Office of Administrative Hearings