

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

WALNUT CREEK SCHOOL DISTRICT.
OAH CASE NUMBER 2023120791

ORDER GRANTING MOTION TO AMEND COMPLAINT

JANUARY 29, 2024

On December 20, 2023, Parents on behalf Student filed a Due Process Hearing Request, referred to as a complaint, with the Office of Administrative Hearings, called OAH, naming Walnut Creek School District as respondent.

On January 3, 2024, Walnut Creek filed a Notice of Insufficiency. On January 5, 2024, OAH issued an Order of Determination of Insufficiency of Due Process Complaint finding the complaint was insufficiently pled. The Order permitted Student to file an amended complaint within 14 days.

On January 22, 2024, OAH received Student's first amended complaint pursuant to the Order determining the original complaint insufficient. OAH issued a Scheduling Order on the same date. On January 23, 2024, Student filed a second amended

complaint. This filing is being treated as a motion to amend. Walnut Creek did not file a response to Student's second amended complaint filing.

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's second amended complaint filed January 23, 2024, is deemed a motion to amend. In the future, a motion to amend must accompany an amended complaint. The motion to amend was filed more than five days prior to the due process hearing and is timely. Therefore, it is timely and is granted. Student's second amended complaint is deemed filed on the date of this order. 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.

Marlo Nisperos

Marlo Nisperos

Administrative Law Judge

Office of Administrative Hearings