

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

FOUNTAIN VALLEY SCHOOL DISTRICT.

OAH CASE NUMBER 2023120830

ORDER DENYING MOTION TO FILE A SECOND AMENDED
COMPLAINT

JUNE 14, 2024

On June 11, 2024, Student filed a motion to file a second amended due process request, with the Office of Administrative Hearing, called OAH. On June 13, 2024, Elk Grove Unified School District filed notice of non-opposition to Student's motion to amend. The prehearing conference is set for June 14, 2024, and hearing is scheduled June 25 through 27, 2024.

PROCEDURAL HISTORY

On December 20, 2023, Student filed a request for due process hearing with OAH, naming Fountain Valley Unified School District, which is called Fountain Valley.

OAH scheduled the hearing for July 13, 2021. On January 23, 2024, OAH granted the parties' joint request to set a mediation date and continue the due process hearing in this matter. OAH set a mediation for March 1, 2024, and the hearing for April 30, 2024.

On February 28, 2024, the parties cancelled the mediation "due to unexpected circumstances" and asked that it be reset. OAH reset the mediation for March 19, 2024. On March 18, 2024, the parties requested that the mediation be reset, on the ground that there had been a death in the family of a participant. OAH reset the full-day mediation for March 27, 2024. The parties engaged in mediation on March 27, 2024.

On April 16, 2024, Student moved to amend his complaint. Fountain Valley did not oppose the motion and leave to amend was granted on April 18, 2024. OAH issued a new scheduling order, setting the hearing for due process hearing June 4 through 6, 2024.

On April 26, 2024, the parties filed a request for a second mediation and continuance of hearing. OAH denied the request on April 29, 2024, for failure to state good cause. On May 1, 2024, the parties refiled a joint request for a second mediation on June 7, 2024, and continuance of hearing to July 2024. OAH granted the joint request, setting mediation for June 7, 2024, and continuing the prehearing conference to June 14, 2024, and the hearing to June 25, 26, and 27, 2024. OAH cautioned the parties, in the order granting a second mediation, that further continuance of the hearing would require extraordinary good cause.

The parties mediated on June 7, 2024. Later, on June 7, 2024, Fountain Valley filed a notice of substitution of counsel.

STUDENT'S MOTION TO FILE A SECOND AMENDED COMPLAINT

On June 11, 2024, Student filed a motion to file a second amended due process request. Fountain Valley filed notice of non-opposition to the motion to amend on June 13, 2024.

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).)

In the proposed second amended complaint, Student seeks to add allegations of violations that occurred after the filing of the April 18, 2024 amended complaint, less than two months before.

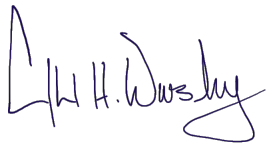
While Student's unopposed motion to amend was filed more than five days prior to hearing, granting such a motion is within the sound discretion of the administrative law judge. Here, the hearing in this matter has been continued three times. The most recent continuance was to permit the parties to mediate a second time on June 7, 2024. The continuance was not intended to provide Student with an opportunities to add issues to a second amended complaint, then six months after the initial complaint's filing, and restart the applicable timeline for the hearing.

The Individuals with Disabilities Education Act specifically states that nothing in the Act shall be construed to preclude a parent from filing a separate due process complaint on an issue separate from a due process complaint already filed. (20 U.S.C. § 1415(o); 34 C.F.R. § 300.513(c) (2006); Ed Code, § 56509.) Therefore, Student is not

precluded from filing a new due process complaint on issues that accrued since April 18, 2024..

Student's motion to file a second amended complaint is denied. The hearing will proceed, as presently scheduled, on Student's first amended complaint.

IT IS SO ORDERED.

A handwritten signature in blue ink, appearing to read "Clifford H. Woosley". The signature is stylized with a large initial "C" and a long, sweeping underline.

Clifford H. Woosley

Administrative Law Judge

Office of Administrative Hearings