

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
POWAY UNIFIED SCHOOL DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NUMBER 2024060463

ORDER FOLLOWING PREHEARING CONFERENCE
GRANTING MOTION TO AMEND

SEPTEMBER 9, 2024

On September 6, 2024, Administrative Law Judge Alexa Hohensee, Office of Administrative Hearings, held a telephonic prehearing conference. The Administrative Law Judge is called an ALJ. The Office of Administrative Hearing is called OAH. The prehearing conference will be referred to as a PHC.

Attorney Danielle Gigli appeared on behalf of Poway Unified School District, called Poway. Attorney Paul Hefley appeared on behalf of Student. The PHC was recorded. Based upon discussion with the parties, the ALJ issues the following order:

MOTION TO AMEND

On June 12, 2024, Poway filed a due process hearing request, referred to as a complaint, with OAH, naming Student. On September 3, 2024, Poway filed a motion to amend and an amended complaint. On September 5, 2024, Student filed a non-opposition to amendment, except for Poway's Issue 3, which Student contends is outside of OAH's jurisdiction. The due process hearing is set to start on September 17, 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).)

The motion to amend was filed more than five days prior to the due process hearing. Poway seeks to add issues for permission to assess Student without parental consent and for a finding that Student was not denied a FAPE because Poway did not reimburse Parent on Parent's request. Therefore, Poway's motion is timely and is granted.

The amended complaint shall be 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.

This order does not preclude Student from filing a motion to dismiss Issue 3 of Poway's amended complaint if Student chooses to do so.

IT IS SO ORDERED.

Alexa Hohensee

Alexa Hohensee

Administrative Law Judge

Office of Administrative Hearings