

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

STUDENT,

v.

CENTRAL UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2024070862

ORDER FOLLOWING PREHEARING CONFERENCE FOR
HEARING BY VIDEOCONFERENCE GRANTING MOTION TO
AMEND COMPLAINT AND MOTION TO DISMISS IN PART

OCTOBER 28, 2024

On October 25, 2024, Administrative Law Judge Deborah Myers-Cregar, Office of Administrative Hearings, held a prehearing conference by videoconference. The Administrative Law Judge is called an ALJ. The Office of Administrative Hearings is called OAH. The prehearing conference is called a PHC.

Attorney Anisha Asher appeared on behalf of Central Unified School District, called Central. Attorney Tania Whiteleather briefly appeared on behalf of Student but had an unstable internet connection, impacting her participation. The PHC was recorded. Based upon discussion with the parties, the ALJ issues the following order:

MOTION TO AMEND COMPLAINT AND MOTION TO DISMISS NON-IDEA CLAIMS

MOTION TO AMEND COMPLAINT

On July 23, 2024, Student filed a Due Process Hearing Request, referred to as a complaint, with OAH, naming Central.

On October 18, 2024, Student filed a Motion to Amend the Due Process Hearing Request and an amended complaint. Student duplicates the 2023-2024 school year issues and seeks to expand the time frame of the complaint to include the first part of the 2024-2025 school year.

On October 23, 2024, Central filed an opposition to the motion. It asserts Student is improperly extending the operative time period.

The due process hearing is scheduled to begin on November 5, 2024. This is Student's first request to amend the complaint.

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 the complaint was filed more than five days prior to the due process hearing. Therefore, it is timely and is granted.

MOTION TO DISMISS IN PART

On October 23, 2024, Central filed a Motion to Dismiss alleging OAH lacks jurisdiction to adjudicate certain claims alleged in the complaint. OAH received no response from Student.

The purpose of the Individuals with Disabilities Education Act (20 U.S.C. § 1400 et. seq.) is to “ensure that all children with disabilities have available to them a free appropriate public education,” and to protect the rights of those children and their parents. (20 U.S.C. § 1400(d)(1)(A), (B), and (C); see also Ed. Code, § 56000.) A party has the right to present a complaint “with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child.” (20 U.S.C. § 1415(b)(6); Ed. Code, § 56501, subd. (a) [party has a right to present a complaint regarding matters involving proposal or refusal to initiate or change the identification, assessment, or educational placement of a child; the provision of a free appropriate public education to a child; the refusal of a parent or guardian to consent to an assessment of a child; or a disagreement between a parent or guardian and the public education agency as to the availability of a program appropriate for a child, including the question of financial responsibility].) The jurisdiction of OAH is limited to these matters. (*Wyner v. Manhattan Beach Unified School. Dist.* (9th Cir. 2000) 223 F.3d 1026, 1028-1029.)

OAH does not have jurisdiction to decide claims based on Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.), Section 1983 of Title 42 United States Code, the Americans with Disabilities Act (42 U.S.C. §§ 12101, et seq.), or the Unruh Civil Rights Act (Civ. Code, § 51).

Central asserts OAH lacks jurisdiction over these non-IDEA claims. Central identifies former Issue 2 of Student's original complaint, which is current Issue 3 in Student's proposed amended complaint. OAH does not have jurisdiction to resolve these claims. Accordingly, Issue 3 in Student's amended complaint is dismissed.

ORDER

1. Student's Motion to Amend is granted.
2. The amended complaint shall be deemed filed on the date of this order.
3. All applicable timelines shall be reset as of the date of this order.
4. OAH will issue a scheduling order with the new dates.
5. Central's Motion to Dismiss Issue 3 of the amended complaint is granted.
6. This order includes all rulings made at the PHC.

Deborah Myers Cregar

Deborah Myers-Cregar

Administrative Law Judge

Office of Administrative Hearings