BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

ASPIRE FIRESTONE ACADEMY.

OAH CASE NUMBER 2025110729

# ORDER GRANTING STUDENT'S MOTION TO AMEND COMPLAINT AND DETERMINING NOTICE OF INSUFFICIENCY MOOT

DECEMBER 8, 2025

On October 28 2025, Parent, on behalf of Student, filed a Due Process Hearing Request, also called a complaint, with the Office of Administrative Hearings, called OAH, naming Aspire Firestone Academy as respondent. OAH issued a notice of incomplete filing due to the lack of a proof of service.

On November 12, 2025 Student filed another request for due process, also naming Aspire as respondent. This filing also failed to include a proof of service. On November 18, 2025, Student filed a document entitled "Additional Information for Due

Process Complaint." This document attempted to supplement prior filings. It also did not have a proof of service.

On December 3, 2025 Student filed another copy of the October 27, 2025 complaint, again without a proof of service. On December 3, 2025 Student also filed a motion to amend his complaint that did include a proof of service. The proposed amendment offered only supplemental information to a prior filing rather than being a complete amended complaint as is required. Separately, also on December 3, 2025, Student filed another copy of the October 27, 2025 complaint without a proof of service.

On December 4, 2025, Aspire filed a Notice of Insufficiency as to the complaint referencing documents it received on November 18, 2025 and December 3, 2025. Aspire argues the filings are unintelligible and lack clear proofs of service.

On December 8, 2025, Student filed an amended complaint. OAH had not issued an order regarding Student's original motion to amend his complaint.

## STUDENT'S MOTION TO AMEND THE COMPLAINT

Student's amended complaint filing will be treated as a motion to amend the complaint. An amended complaint may be filed when the opposing party consents in writing and is given the opportunity to resolve the complaint through a resolution session, or when the administrative law judge grants permission. The administrative law judge may grant permission at any time not later than five days before the due process hearing. (20 U.S.C. 1415(c)(2)(E)(i)(II); (34 C.F.R. § 300.508 (d)(4).) The filing of an amended complaint restarts the applicable timelines for the due process hearing. (20 U.S.C. §1415(c)(2)(E)(ii); (34 C.F.R. § 300.508 (d)(4); Ed. Code, § 56502, subd. (e).)

In this case, Student filed an amended complaint on Sunday December 7, 2025. As the document was filed outside normal business hours, the document is deemed filed the next business day, in this case December 8, 2025. As the hearing in this case is currently scheduled to begin December 30, 2025, Student's motion to amend was filed sufficiently in advance of the hearing for the Administrative Law Judge to rule at least five days prior to the due process hearing. Therefore, it is timely. Aspire's notice of insufficiency is indication it sought an order requiring Student to amend the complaint. Therefore, the request to amend is deemed unopposed, and is granted.

## NOTICE OF INSUFFICIENCY

The named parties have the right to challenge the complaint's sufficiency within 15 days of receiving a request for due process hearing. (20 U.S.C. § 1415(b) & (c).) The party filing the complaint is not entitled to a hearing unless the complaint meets the requirements of title 20 United States Code section 1415(b)(7)(A).

In this case, Student filed an amended complaint after Aspire filed its notice of insufficiency. The amended complaint supercedes the complaint that was the subject of the Notice of Insufficiency. Therefore, Aspire's Notice of Insufficiency is moot.

## STUDENT MUST FILE DOCUMENTS THAT INCLUDE PROPER FILER INFORMATION AND PROOFS OF SERVICE

The first page of each document filed with OAH must include the name, address and telephone number of the person filing the paper, preferably in the upper left corner. (Cal. Code Regs. tit. 1, §1006, subd. (a)(1).) Including an email address is also encouraged. Each document filed in an OAH special education case must include a proof of service, in the form required by California Code of Regulations title, 1, section

1008, subdivision (e). That proof of service must state, under oath, the document was delivered as required in California Code of Regulations, title 5, section 3083. Student is on notice that compliance with these regulations is expected in all future filings.

## ORDER

1. Student's motion to amend the complaint is granted.
2. The amended complaint is deemed filed on the date of this order.
3. All dates currently scheduled in the case are vacated. OAH will issue a new scheduling order.
4. All applicable timelines shall be reset as of the date of this order.

IT IS SO ORDERED.

*Penelope Pahl*

Penelope S. Pahl
Administrative Law Judge
Office of Administrative Hearings