BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

NEWPORT-MESA UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2024030862

ORDER GRANTING MOTION TO AMEND COMPLAINT AND DENYING MOTION TO CONTINUE AS MOOT

AUGUST 16, 2024

On March 22, 2024, Student filed a Due Process Hearing Request, referred to as a complaint, with the Office of Administrative Hearings, naming Newport-Mesa Unified School District, called Newport-Mesa. The Office of Administrative Hearings is referred to as OAH.

On August 14, 2024, Student filed a Motion to Amend the Due Process Hearing Request and an amended complaint. Also on August 14, 2024, Newport-Mesa filed a motion to continue the due process hearing to October 8, 9, and 10, 2024.

Newport-Mesa filed a notice of non-opposition to Student's Motion to Amend the Due Process Hearing Request on August 15, 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, and Newport-Mesa does not object to the amendment. The amendment raises new issues not included in Student's original complaint. Therefore, it is timely and is granted. Because the granting of Student's motion to amend restarts the applicable timelines for the due process hearing, Newport-Mesa's request for continuance is moot and is therefore denied.

ORDER

1. The amended complaint shall be deemed filed on the date of this order.
2. All applicable timelines shall be reset as of the date of this order.
3. OAH will issue a scheduling order with the new dates.
4. Newport-Mesa's motion to continue is denied as moot.

IT IS SO ORDERED.

Ashok Pathi

Ashok Pathi
Administrative Law Judge
Office of Administrative Hearings