BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. CAPISTRANO UNIFIED SCHOOL DISTRICT.	OAH Case No. 2016110441 ORDER DENYING MOTION TO AMEND COMPLAINT

On November 2, 2016, Student filed a Due Process Hearing Request (complaint) with the Office of Administrative Hearings, naming Capistrano Unified School District. On March 15, 2017, Student filed a Motion to Amend the Due Process Hearing Request (amended complaint). No response has been received from District.

An amended complaint may be filed when either (a) the other party consents in writing and is given the opportunity to resolve the complaint through a resolution session, or (b) the hearing officer grants permission, provided the hearing officer may grant such permission at any time more than five (5) days prior to 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).)

A complaint must contain: (1) a description of the nature of the problem of the child relating to the proposed initiation or change concerning the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to the child; (2) facts relating to the problem; and (3) a proposed resolution of the problem to the extent known and available to the party at the time. (20 U.S.C. § 1415(b)(7)(A)(ii)(III) & (IV).)

The motion to amend the complaint is denied as Student mainly contended that the motion is a clarification as to the proposed resolution as Student's present non-public school is in the process of becoming certified, which would permit an Administrative Law Judge to order prospective placement in New Vista as relief. However, the pleading requirements for proposed resolutions only require a party to state the proposed resolutions known at the time the complaint was filed and do not require an amended complaint if the proposed resolutions change, in contrast to raising new issues for hearing that require an amended complaint and a restarting of the applicable timelines. Further, Student's motion does not set forth the changes to the original issues for hearing that would warrant an amended complaint as at most issues are just clarified without specifying any material change requiring an amended

complaint. Therefore, the motion to amend is denied. All previously set dates shall remain on calendar.

IT IS SO ORDERED.

DATE: March 17, 2017

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Peter Paul Castillo
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PETER PAUL CASTILLO
Presiding Administrative Law Judge
Office of Administrative Hearings