BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2017061033
v.	ORDER DENYING STUDENT'S MOTION TO AMEND COMPLAINT
ANTIOCH UNIFIED SCHOOL DISTRICT.	

On June 22, 2017, Student filed a due process hearing request (complaint) with the Office of Administrative Hearings, naming Antioch Unified School District. On November 6, 2017, OAH granted Student's first request to amend his due process complaint. On May 2, 2018, Student filed a second motion to amend the due process hearing request (second amended complaint). Antioch filed an opposition on May 3, 2018.

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).)

In Student's second Request to Amend, Student seeks to add a Section 504 claim relating to circumstances that did not exist at the time of the original complaint.[1] No new Individuals with Disabilities Education Act claims are made in the second amended complaint. Student's case was originally filed in June 2017. The hearing in this case has been delayed for multiple reasons including Antioch's failure to gain board approval for a settlement agreement previously negotiated by the parties, the filing of Student's first amended complaint, and several continuances granted for other reasons.

The IDEA specifically states that nothing in the Act shall be construed to preclude a parent from filing a separate due process complaint on an issue separate from a due process complaint already filed. (20 U.S.C. § 1415(o); 34 C.F.R. § 300.513(c) (2006); Ed Code, §

[1] Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794) requires a school district to provide program modifications and accommodations to children who have physical or mental impairments that substantially limit a major life activity such as learning. OAH does not have jurisdiction over Section 504 claims.

56509.) Student's second request to amend the due process complaint is DENIED. Nothing precludes Student from raising the 504 claim in a separate due process complaint.

IT IS SO ORDERED.

DATE: May 4, 2018

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Rita Defilippis
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RITA DEFILIPPIS
Administrative Law Judge
Office of Administrative Hearings