BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENTS ON BEHALF OF STUDENT, v. SPRINGS CHARTER SCHOOLS AKA RIVER SPRINGS CHARTER SCHOOL,	OAH Case No. 2018031003
SPRINGS CHARTER SCHOOLS AKA RIVER SPRINGS CHARTER SCHOOL, v. PARENTS ON BEHALF OF STUDENT.	OAH Case No. 2018060667 ORDER DENYING STUDENT'S MOTION TO FILE A THIRD AMENDED COMPLAINT

PROCEDURAL HISTORY

On May 29, 2018, the Office of Administrative Hearings granted Student's motion to file a second amended request for due process hearing, which named Springs Charter Schools, AKA River Springs Charter School. OAH informed Student that it would not grant any further amendments in this case. On June 21, 2018, OAH granted Charter's motion to consolidate its case with that of Student. OAH granted Charter's unopposed motion to continue this matter on July 3, 2018.

On September 11, 2018, Student filed a third motion to amend her complaint, along with a proposed third amended complaint.

APPLICABLE LAW AND DISCUSSION

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).) Leave to amend is thus discretionary with the hearing officer.

Student seeks to amend her complaint for a variety of reasons. First, argues that Charter failed to implement Student's individualized education plan up to the present date. First, Student already alleged failure to implement in each of her previous complaints. Second, to the extent that Student believes she is raising new categories of instances of Charter's failure to implement her educational program, Student may file a new complaint. This case is already over six months old. Granting leave to amend each time Student discovers another possible due process violation could extend this due process proceeding indefinitely.

Student contends amendment is warranted because Charter allegedly violated a May 18, 2018 order from the United States District Court for the Central District of California, in which the court overturned OAH's order denying Student stay put at the Prentice School. In its order, the district court found Prentice to be Student's stay put. OAH does not have authority to enforce the district's court's order. If Charter is in violation of that order, Student's remedy lies with the district court, not with OAH.

Student also seeks leave to amend her complaint because Charter appealed the district court's stay put order, and the appeal is pending with the Ninth Circuit Court of Appeals. Student fails to persuasively argue that amendment is warranted based on the pending appeal. The issues on appeal are distinct from the issues raised in Student's second amended complaint, to wit, whether Charter procedurally and substantively denied her a free appropriate public education during the applicable time frame, and can be filed as a separate hearing request. (20 U.S.C. § 1415(o).) Whether Prentice is or is not Student's stay put (and, as of now the district court's order is in force, which finds Prentice to be stay put) is not dispositive of the FAPE violations alleged in her complaint. In any case, it is doubtful whether Charter's appeal would resolve prior to a scheduled hearing on Student's proposed third amended complaint, which underscores the faulty reasoning Student raises as support for amending her complaint solely due to a pending appeal of a stay put order.

Finally, Student seeks to amend her complaint by adding the Riverside County Office of Education as a necessary party to the case. Student states that County is the Special Education Local Plan Area which authorized Charter to operate. She also contends that there is a memorandum of understanding between County and Charter in which County assumed oversight duties with respect to Charter's compliance with the Individuals with Disabilities Education Act. Student did not include a copy of the memorandum of understanding with her motion to amend. However, the presence or absence of such a contract is not relevant to the instant case. Student does not state that County is the local educational agency responsible for Student's education. To the contrary, each of her complaints states that Charter is its own local educational agency and responsible for providing Student with an education. Student therefore provides no persuasive reason for permitting amendment of her complaint six months after she filed her original complaint, based upon an agreement between County and Charter.

ORDER

1. Student's motion to file a third amended complaint is denied.

2. Nothing in this order is to be construed as preventing Student from filing a new request for due process hearing raising issues not previously alleged in her pending second amended complaint.

DATE: September 11, 2018

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Darrell Lepkowsky
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DARRELL LEPKOWSKY
Administrative Law Judge
Office of Administrative Hearings