

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SAN MATEO UNION HIGH SCHOOL
DISTRICT.

OAH CASE NO. 2013090550

ORDER GRANTING MOTION TO
AMEND COMPLAINT

On September 13, 2013, Student filed a Due Process Hearing Request (complaint), naming the San Mateo Union High School District (District). On October 28, 2013, a prehearing conference (PHC) was held in this matter. During the PHC, Student indicated that she may file a motion to amend her complaint. On November 1, 2013, Student filed a Motion to Amend the Due Process Hearing Request and an Amended Due Process Hearing Request (amended complaint). On November 1, 2013, District filed an opposition to Student's motion.

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).)

District raises various grounds for its opposition including timeliness of Student's motion, a possible unfair advantage gained by Student by having participated in the PHC prior to amending her complaint, and unavailability of its representative due to pending surgery. Student contends that her counsel did not receive educational records until October 31, 2013, and those records raised additional factual allegations and prompted modifications to Student's original complaint. Student's complaint was filed on September 13, 2013, and the parties participated in an individualized education program team meeting on October 3, 2013. The amended complaint raises allegations concerning the offer made at the October 3, 2013 meeting. This is a new claim which could not have been litigated under the initial complaint. Judicial economy is served if all issues concerning Student's education can be resolved in one proceeding.

The motion to amend is timely and is granted. The amended complaint shall be deemed filed on the date of this order. All applicable timelines shall be reset as of the date of this order. The Office of Administrative Hearings will issue a scheduling order with the new dates.

IT IS SO ORDERED.

Dated: November 5, 2013

/s/

BOB N. VARMA
Presiding Administrative Law Judge
Office of Administrative Hearings