BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

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| In the Matter of:<br><br>PARENT on behalf of STUDENT,<br><br>v.<br><br>SAN MATEO-FOSTER CITY SCHOOL DISTRICT. | OAH CASE NO. 2009060261<br><br>ORDER GRANTING REQUEST TO AMEND COMPLAINT |

On June 3, 2009, Parent, on behalf of Student, filed a Due Process Hearing Request (Complaint), naming San Mateo-Foster City School District (District) as the respondent.

On July 6, 2009, Student filed a Request to Amend Complaint (Request to Amend). Specifically, Student seeks to exclude "compliance errors within one year of the date of [his Complaint]." Student's Complaint would continue to include "the free and appropriate public education dispute (both past and current), the least restrictive environment dispute, and the dispute over proper referral, assessment and initial placement procedures . . . Timeline should cover August 2007-current."

On July 10, 2009, District filed a written response to Student's Request to Amend in which District stated that it did not oppose Student's Request to Amend, but believed the language in Student's Request to Amend was inadequate for District to discern which issues remained in Student's Complaint. Therefore, District requested that Student be ordered to file a completely rewritten amended complaint.

## APPLICABLE LAW

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)(II).)[1] The filing of an amended complaint restarts the applicable timelines for the due process hearing. (§1415(c)(2)(E)(ii).)

[1] All statutory citations are to Title 20 United States Code unless otherwise indicated.

## DISCUSSION

Amendment of the complaint was not opposed, is timely and appropriate. The language of the Request to Amend was adequate for District to discern what changes Student proposed, and therefore, what claims will remain. Accordingly, Student's Request to Amend shall be granted; hereafter, the amended complaint shall be referred to as the First Amended Complaint. District's request that Student be ordered to file a completely rewritten amended complaint shall be denied.

Pursuant to Section 1415, subsection (c)(2)(E)(ii), all applicable timelines shall recommence upon filing of the First Amended Complaint, which shall be deemed filed on the date of this Order.

## ORDER

1. Student's Request to Amend the Complaint is granted.

2. District's request that Student be ordered to file a completely rewritten amended complaint is denied.

3. The amended complaint shall hereafter be referred to as the First Amended Complaint and is deemed filed on the date of this Order.

4. All existing dates in this matter are vacated.

5. All applicable timelines shall recommence as of the date of this Order and a new scheduling order will be issued.

Dated: July 15, 2009

/s/

STEVEN CHARLES SMITH
Administrative Law Judge
Office of Administrative Hearings