

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT on behalf of STUDENT,

v.

MODESTO CITY SCHOOLS AND
STANISLAUS COUNTY DEPARTMENT
OF MENTAL HEALTH.

OAH CASE NO. 2009090763

ORDER GRANTING MOTION TO
AMEND COMPLAINT

On September 10, 2009, Diana B. Glick, attorney for Student, filed a Due Process Hearing Request (complaint) against the Modesto City Schools (Modesto) and Ceres Unified School District (Ceres). On November 17, 2009, Student filed a Motion to Amend the Due Process Hearing Request (amended complaint), which added the Stanislaus County Department of Mental Health (SCDMH) as a party and dismissed Ceres, and added new facts against Modesto. Modesto filed a response on November 24, 2009, which did not oppose Student's motion. No opposition was received from SCDMH.

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(f)(1)(B).)

DISCUSSION

Amendment of the complaint was not opposed and is appropriate and timely. Pursuant to Section 1415, subsection (c)(2)(E), all applicable timelines recommence upon filing of the amended complaint. The amended complaint shall be deemed filed on the date of this order.

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

ORDER

1. The motion to amend the due process complaint is granted.
2. The amended complaint is deemed filed on the date of this order.
3. All applicable timelines shall recommence as of the date of this order.
4. All previously set dates for the prehearing conference and hearing are vacated. OAH shall issue a new scheduling order.
5. Henceforth, this matter shall be known as *Student v. Modesto City Schools and Stanislaus County Department of Mental Health*.

Dated: November 25, 2009

/s/

PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings