

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

STUDENT,

v.

LODI UNIFIED SCHOOL DISTRICT.

OAH CASE NO. 2010070289

ORDER GRANTING MOTION TO  
AMEND COMPLAINT

On July 2, 2010, Margaret M. Broussard, attorney, on behalf of Student (student) filed a Due Process Hearing Request (complaint), naming Lodi Unified School District (district). On July 14, 2010, student filed a Motion to Amend the Due Process Hearing Request (amended complaint).<sup>1</sup>

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 days prior to the due process hearing. (20 U.S.C. §1415(c)(2)(E)(i)(II).) The filing of an amended complaint restarts the applicable timelines for the due process hearing. (20 U.S.C. §1415(f)(1)(B).)

DISCUSSION

Hearing for this matter is set for August 26, 2010. Student's motion was filed more than five days prior to the due process hearing, and is therefore timely. The initial complaint alleged that district denied student a free and appropriate public education (FAPE) for the 2010-2011 school year. The now amended complaint alleges that the district failed to offer student a FAPE for the 2010-2011 school year. In all other respects the amended complaint is the same. Student's amended complaint is reasonable as it clarifies the allegation. Accordingly, student's motion to amend is granted.

The parties request that the hearing date be maintained. Since the August 26, 2010 hearing date is beyond the required 30-day period for a resolution session, the hearing date

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<sup>1</sup> On July 12, 2010, Ben Hance, attorney, on behalf of district filed a Motion to Dismiss. On July 14, 2010, district withdrew the Motion to Dismiss after agreeing with student that it would withdraw the Motion to Dismiss, without prejudice, and that student would amend the complaint.

will be maintained, but the scheduled mediation and telephonic prehearing conference will be rescheduled.

### ORDER

1. Student's motion to amend the complaint is granted and shall be deemed filed on the date of this order.
2. The dates for mediation and prehearing conference are vacated.
3. Mediation is scheduled for Tuesday, August 24, 2010, at 9:30 a.m..
4. A telephonic prehearing conference is scheduled on Wednesday, August 25, 2010, at 10:00 a.m.
5. The hearing remains scheduled on Thursday, August 26, 2010, at 9:30 a.m.

Dated: July 22, 2010

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MICHAEL G. BARTH  
Administrative Law Judge  
Office of Administrative Hearings