

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SAN DIEGO UNIFIED SCHOOL  
DISTRICT, DESSERT MOUNTAIN  
SELPA & HIGH TECH HIGH MEDIA  
ARTS

OAH CASE NO. 2010090872

ORDER GRANTING STUDENT'S  
MOTION TO AMEND COMPLAINT

On September 21, 2010, Student filed a Due Process Hearing Request (complaint), naming the San Diego Unified School District (District) and the Dessert Mountain SELPA (SELPA) as respondents. On September 22, 2010, Student filed a second complaint naming District and SELPA as respondents. On October 21, 2010, SELPA filed a motion to be dismissed as a party. On October 25, 2010, Student filed a request that High Tech High Media Arts (HTH) be added as a party. On October 26, 2010, District filed a motion to be dismissed as a party.

On October 29, 2010, HTH filed a notice of non-opposition to being named as a party, provided the matter was treated as a newly consolidated matter, and all dates were reset. Also, on October 29, 2010, Student filed an opposition to the SELPA's motion to be dismissed as a party, which also included a request that his complaint be amended to include facts alleged in his combined opposition and request to amend. Student's motion did not include a draft of an amended complaint.

On November 1, 2010, the Office of Administrative Hearings (OAH) issued an order consolidating Student's September 21, 2010 and September 22, 2010 complaints. In addition, OAH granted Student's request to add HTH as a party. However, OAH denied, without prejudice, Student's request to amend his complaint, and stated that Student could bring a new motion to amend that included a proposed amended complaint that combined all issues and allegations from the September 21, 2010 and September 22, 2010 complaints, as well as any new allegations Student wished to make.

On November 19, 2010, Student filed a new motion to amend, that included a proposed Second Amended Request for Due Process. On November 23, 2010, SELPA and HTH filed a notice of non-opposition to Student's motion to amend. District filed no opposition.

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).)<sup>1</sup> The filing of an amended complaint restarts the applicable timelines for the due process hearing. (§1415(f)(1)(B).)

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. OAH will issue a scheduling order with the new dates.

IT IS SO ORDERED.

Dated: December 1, 2010

/s/

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CARLA L. GARRETT  
Administrative Law Judge  
Office of Administrative Hearings

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<sup>1</sup> All statutory citations are to Title 20 United States Code unless otherwise indicated.