

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

FRANKLIN MCKINLEY SCHOOL  
DISTRICT, ROCKETSHIP SI SE PUEDE  
ACADEMY.

OAH CASE NO. 2010120208

ORDER GRANTING MOTION TO  
AMEND COMPLAINT

On December 7, 2010, Student filed a Due Process Hearing Request (complaint), naming Franklin McKinley School District (District) and Santa Clara County Office of Education (SCCOE), with the Office of Administrative Hearings (OAH). On January 5, 2011, Student faxed a document to OAH entitled "First Amended Request for Due Process Hearing; Notice of Representation; Notice of Independent Assessment; Confidential Early Resolution Session." There was no formal motion or other request that OAH grant Student leave to file the amended complaint. The amended complaint named the District and Rocketship Si Se Puede Academy (Rocketship), a charter school, but did not name SCCOE.

On January 5, 2011, Student also faxed to OAH a request to dismiss the complaint. OAH vacated the dates previously set for mediation and hearing. On January 10, 2011, someone from Student's attorney's office informed OAH staff that the request for dismissal should have been more specific since Student was only dismissing SCCOE. OAH was told that an amended request for dismissal would be filed. On January 14, 2011, Attorney Julie Robbins filed a notice of representation on behalf of Rocketship.

On February 8, 2011, Student sent a letter explaining that it intended only to dismiss SCCOE in January, and asking the status of the amended complaint. The other parties have filed no opposition to the amended complaint.

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 administrative law judge grants permission, provided the administrative law judge 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).)<sup>1</sup> The filing of an amended complaint restarts the applicable timelines for the due process hearing. (20 U.S.C. §1415(c)(2)(E)(ii).)

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: February 9, 2011

/s/

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REBECCA FREIE  
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.