

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SAN MATEO UNION HIGH SCHOOL  
DISTRICT AND SAN MATEO COUNTY  
MENTAL HEALTH

OAH CASE NO. 2011080184

ORDER GRANTING MOTION TO  
AMEND COMPLAINT

On August 05, 2011, Parent on behalf of Student filed a Due Process Hearing Request (complaint), naming District and San Mateo County Mental Health. The original complaint is set for hearing beginning on December 12, 2011. On November 23, 2011, Student timely filed a Request to Amend the Due Process Hearing Request and attached a proposed amended complaint (amended complaint). Respondents jointly filed an opposition to the request to amend on November 30, 2011, accompanied by a declaration under penalty of perjury.

Respondents oppose Student's request to amend on two grounds: 1) that Respondents did not consent to an amendment and therefore Student's filing of the amended complaint along with the request to amend is procedurally improper, and 2) because Student cancelled a scheduled mediation immediately before filing the request to amend, depriving Respondents of the opportunity to resolve the new issues in a resolution session or mediation. Respondents request that, if the motion is granted, timelines must be reset to allow time for informal resolution.

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).)<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).)

---

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

The motion to amend is timely and is granted. The grounds raised by the Respondents are not sufficient to deny the request to amend. Mediation is entirely voluntary and Respondents were required to conduct a resolution session regarding the issues in the original complaint months ago. Moreover, the motion was procedurally proper.

The amended complaint shall be deemed filed on the date of this order. All applicable timelines, including the right to a resolution session as required by Title 20 U.S.C. §1415(f)(1)(b), 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: November 30, 2011

/s/

---

ADRIENNE L. KRIKORIAN  
Administrative Law Judge  
Office of Administrative Hearings