

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

SAN RAMON VALLEY UNIFIED
SCHOOL DISTRICT.

OAH CASE NO. 2011120298

ORDER GRANTING MOTION TO
AMEND COMPLAINT

On December 8, 2011, Student filed a Due Process Hearing Request (complaint), naming the San Ramon Valley Unified School District (District). On February 8, 2012, Student filed a Motion to Amend the Due Process Hearing Request (amended complaint), which included a Stipulation from the District that agreed to the amendment. In the Stipulation, the parties requested that the presently set Prehearing Conference (PHC), February 22, 2012, and due processing hearing, March 5 – 8, 2012, dates remain as calendared.

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).)¹ 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 because Student amended the complaint to delete allegations barred by the parties' previous settlement agreement, add more recent factual contentions, the request was made more than five days before the hearing commenced, and is Student's first request to amend the complaint.

As to the parties' request to keep the PHC and due process hearing dates that are presently calendared, the granting of Student's amended complaint recommences the applicable timelines, including the 30-day resolution session period. (20 U.S.C. §§ 1415(c)(2)(E)(ii) & (f)(1)(B).) The parties' stipulation does not include a written waiver of the resolution session, without which the Office of Administrative Hearings (OAH) cannot conduct the PHC or due process during the 30-day resolution session period. (20 U.S.C. §§ 1415(f)(1)(B)(i)(IV) & (f)(1)(B)(ii).)

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

Accordingly, 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 15, 2012

/s/

PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings