

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:	
MILLBRAE SCHOOL DISTRICT,	OAH CASE NO. 2013030202
v.	
PARENTS ON BEHALF OF STUDENT.	
<hr/>	
PARENTS ON BEHALF OF STUDENT,	OAH CASE NO. 2013040163
v.	
MILLBRAE SCHOOL DISTRICT.	ORDER GRANTING STUDENT'S MOTION TO AMEND COMPLAINT

On March 6, 2013, the Millbrae School District (District) filed with the Office of Administrative Hearings (OAH) a Request for Due Process Hearing (complaint) against Student. OAH designated the District's complaint as OAH case number 2013030202 (First Case). On March 25, 2013, OAH granted the District's motion to amend its case and District's amended complaint was deemed filed on that date.

On April 2, 2013, Student filed a complaint against District. OAH designated the Student's complaint as OAH case number 2013040163 (Second Case). On April 11, 2013, OAH granted Student's request to consolidate the two cases. OAH designated First Case as the primary case, and the Second Case as the secondary case.

In the consolidated matters, Student filed an amended Due Process Hearing Request (Student's amended complaint) on May 3, 2013. OAH deems the filing of the amended complaint a motion to amend the complaint (motion). District has not responded or opposed the motion.

APPLICABLE LAW AND DISCUSSION

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); Ed. Code, § 56502, subd. (e).) The filing of an amended complaint

restarts the applicable timelines for the due process hearing. (20 U.S.C. § 1415(c)(2)(E)(ii); Ed. Code, § 56502, subd. (e).) In a student-filed case, these timelines include a new resolution session period. (Ed. Code, § 56501.5.)

The due process hearing in the consolidated matter is currently scheduled to begin on May 29, 2013. Thus, the due process hearing date is not set to begin within five days from the date of this ruling on the motion to amend. Accordingly, Student's motion to amend is timely, and is granted.

ORDER

1. Student's motion to amend OAH case number 2013040163 (Second Case) is granted.
2. Student's amended complaint shall be deemed filed on the date of this order and all applicable timelines shall be reset as of the date of this order.
3. All currently set dates in the consolidated matters are vacated.
4. The 45-day timeline for issuance of the decision in the consolidated matters shall be based on OAH Case Number 2013040163 (Second Case).
5. OAH will issue a scheduling order with the new dates based on the timelines in the amended complaint in OAH Case Number 2013040163 (Second Case).

IT IS SO ORDERED.

Dated: May 09, 2013

/s/

ADENIYI AYOADE
Administrative Law Judge
Office of Administrative Hearings