

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SAN RAFAEL CITY SCHOOLS.

OAH Case No. 2014080942

ORDER GRANTING MOTION TO  
AMEND COMPLAINT

On August 22, 2014, attorney Amanda Metcalf, on behalf of Student, filed a Due Process Hearing Request (complaint), naming San Rafael City Schools. On December 8, 2014, a telephonic Prehearing Conference (PHC) was held. At the PHC, Ms. Metcalf represented Student and attorney Emily Segrue represented San Rafael. During the PHC, the administrative law judge clarified the issues which were to be heard at the due process hearing. The clarified issues were memorialized in the Order Following Prehearing Conference, which was issued on December 10, 2014.

On December 9, 2014, Student filed a Motion for Clarification, Reconsideration, or In the Alternative Leave to Amend Due Process Complaint. Student's motion did not contain an amended complaint, however, Student's motion did indicate that Student was seeking to amend the complaint in order to add the issue of Student's eligibility for special education services. On December 10, 2014, District informed the Office of Administrative Hearings that District was not opposing Student's motion.

Currently, the due process hearing is scheduled to take place December 16, 2014, through December 18, 2014, and continuing day to day, as needed at the discretion of the Administrative Law Judge.

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).) The filing of an amended complaint restarts the applicable timelines for the due process hearing. (20 U.S.C. §1415(c)(2)(E)(ii).)

Student's motion for leave to amend the complaint is granted, as it was filed more than five days prior to the commencement of the due process hearing. However, as Student has not filed a final amended complaint, Student is directed to do so by the close of business on December 16, 2014. As such, the scheduled hearing dates of December 16, 2014 and December 17, 2014 are vacated and the hearing is continued. In the event, that Student fails to timely file an amended complaint, the hearing shall go forward, on December 18, 2014, solely on the issues as outlined in the PHC order.

At this time, Student's motions for clarification and reconsideration will not be addressed, as they are no longer ripe in light of granting of Student's motion for leave to amend the complaint.

### ORDER

1. Student's request for leave to amend the complaint is granted.
2. Student's amended complaint shall be filed by the close of business on December 16, 2014.
3. The hearing dates of December 16, 2014 and December 17, 2014 are vacated and the hearing is continued.
4. In the event that Student fails to file an amended complaint by close of business on December 16, 2014, the due process hearing shall commence on December 18, 2014 at 9:30 AM. Furthermore, the issues litigated at that hearing will be restricted to those set forth in previously issued the PHC order.

DATE: December 15, 2014

/s/  
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B. ANDREA MILES  
Administrative Law Judge  
Office of Administrative Hearings