

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

v.

MANTECA UNIFIED SCHOOL DISTRICT,
SAN JOAQUIN COUNTY OFFICE OF
EDUCATION, AND SAN JOAQUIN
SELPA.

OAH CASE NOS. 2011050574 &
2011060184

MANTECA UNIFIED SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2011050289

ORDER ON "MOTION FOR
CLARIFICATION"

On June 23, 2011 Student filed a Motion for Clarification of the June 20, 2011 Order issued by the undersigned Administrative Law Judge (ALJ) granting in part Student's Motion to Add Parties filed in OAH case number 2011060184 (Student's Second Case); granting Student's Motion to Amend in case number 2011050574 (Student's First Case), and granting Student's Motion to Consolidate OAH case numbers 20110505754, 2011050289, and 2011060184 ("the second consolidated matter."¹) Student seeks an order clarifying the original order and vacating and resetting all dates. District, San Joaquin SELPA and San Joaquin COE have not filed a response to Student's Motion for Clarification. Student's Motion for Clarification is in reality a motion for reconsideration and is timely.

In Parent's Motion for Clarification, at page 3, lines 21-25, Parent asks for clarification as to whether the June 20, 2011 Order was also an Order amending the Second Complaint by adding parties. The Office of Administrative Hearings will generally reconsider a ruling upon a showing of new or different facts, circumstances, or law justifying reconsideration, when the party seeks reconsideration within a reasonable period of time. (See, e.g., Gov. Code, § 11521; Code Civ. Proc., § 1008.)

¹ Student's First Complaint was consolidated in a separate and unrelated order with District' complaint.

Student contends that the ALJ did not issue a ruling on “Parent’s Motion to Amend Complaint in OAH Case No. 2011060184, which has been identified herein as the Student’s Second Complaint.” However, on June 15, 2011, Student did not file a Motion to Amend in the Second Case. He filed a Motion to Add Additional Parties to a complaint he incorrectly characterized as “amended consolidated May 24, 2011 request.” Concurrently, he filed a “Motion to Amend the Consolidated May 12, 2011, Request for Mediation and Due Process Hearing Complaint” under the case number of Student’s First Case. Although his Proof of Service identifies as item number 2 a “Motion to Amend the Consolidated May 24, 2011, Request for Mediation and Due Process Hearing Complaint,” the attached motion referred to the May 12, 2011 complaint in the First Case. Student also filed a proposed Amended Consolidated May 24, 2011 Request for Mediation and Due Process Hearing Complaint. The ALJ presumes that Student erroneously included the Motion to Amend in the First Case, rather than including a motion to amend in the second case.

At issue here is whether the June 20, 2011 Order granting Student’s Motion to Add Parties to his Second Complaint was effectively an amendment to the Second Complaint. The June 20, 2011 Order, at paragraphs 1, 2 and 3, states:

1. Student’s motion to add San Joaquin COE and San Joaquin SELPA as parties is GRANTED.
2. Student’s motion to add Kristopher Hensley as a party is DENIED
3. Student’s motion to Amend the [sic] **his first complaint in the first consolidated matter** [*i.e.* case # 2011050574] is GRANTED, and the proposed amended complaint shall be deemed filed as of the date of this Order, providing, however, that Kristopher Hensley shall not be a named party. [emphasis added]

The addition of parties to a case is, in effect, an amendment. Because the Order at item number one does not specifically so state and therefore caused some Parent some ambiguity, Student’s motion for reconsideration is GRANTED.

ORDER

1. Item Number 1 of the June 20, 2011 Order issued by OAH is restated as follows: “Student’s motion to add San Joaquin COE and San Joaquin SELPA as parties to OAH Case number 2011060184 is GRANTED and the complaint shall be deemed amended effective June 20, 2011. The Amended Complaint for the Second Case, a proposed copy of which was filed by Student with his June 15, 2011 Motion to Add Parties, shall be deemed the operative complaint in the Second Case providing, however, that Kristopher Hensley shall not be a named party.”

2. All other items in the original Order shall remain as originally stated.

3. Student’s request to vacate and reset all dates is denied. All dates shall remain as scheduled pursuant to the June 20, 2011 scheduling order issued by OAH in the newly consolidated cases.

Dated: June 27, 2011

/s/

ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings