BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. AMADOR COUNTY UNIFIED SCHOOL DISTRICT and AMADOR COUNTY OFFICE OF EDUCATION.	OAH Case No. 2017110160 ORDER GRANTING REQUEST FOR RECONSIDERATION AND GRANTING MOTION TO FILE SECOND AMENDED COMPLAINT

On June 27, 2018, Student filed a motion to amend his first amended complaint and a proposed second amended complaint (second amended complaint). Student seeks to add allegations concerning the 2017-2018 school year that were not included in his original complaint or his first amended complaint, and to add allegations concerning the 2018-2019 school year. Student also seeks to remove his father from the complaint because his parents are divorced and his father does not wish to be a party to the hearing. On June 27, 2018, Amador County Unified School District (Amador) filed a statement of non-opposition to Student's motion. On July 27, 2018, the ALJ issued an order denying Student's motion to amend.

On June 29, 2018, the undersigned administrative law judge issued an order that denied Student's motion to file a second amended complaint. On July 2, 2018, Amador filed a written consent to Student's request to file a second amended complaint. On July 5, 2018, the parties timely filed a joint motion for reconsideration on of the June 29, 2018 order denying the request to file a second amended complaint. The motion for reconsideration is based on the new and additional fact that Amador has now filed a formal consent to Student's request to file a second amended complaint.

The hearing in this matter is presently scheduled to commence on July 31, 2018.

APPLICABLE LAW

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.) The party seeking reconsideration may also be required to provide an explanation for its failure to previously provide the different facts,

circumstances or law. (See *Baldwin v. Home Savings of America* (1997) 59 Cal.App.4th 1192, 1199-1200.)

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).)

DISCUSSION

At the time the ALJ denied Student's request to file a second amended complaint, Amador had filed a notice of non-opposition to the request, but had not formally consented in writing to the motion to amend. Because Amador has now filed a formal written consent to Student's motion to file a second amended complaint, the parties' motion for reconsideration is granted and Student may amend his complaint.

ORDER

The Parties' Joint Motion for Reconsideration is granted. Student's second amended complaint shall be deemed filed as of 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.

DATE: July 09, 2018

DocuSigned by:
Vernon Bogy
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VERNON BOGY
Administrative Law Judge
Office of Administrative Hearings