BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. ANTIOCH UNIFIED SCHOOL DISTRICT.	OAH Case No. 2018050914 ORDER GRANTING MOTION TO FILE FIRST AMENDED COMPLAINT

On May 21, 2018, Student filed a Due Process Hearing Request (complaint) naming Antioch Unified School District as respondent. On August 1, 2018, Student filed a Motion to Amend the Due Process Hearing Request (amended complaint). Antioch filed an opposition on August 2, 2018. This is Student's third motion to amend the complaint. The first motion was denied on the grounds that Student had not filed a fully self-contained amended complaint as required. The second motion was withdrawn by Student.

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).)

Antioch opposes this motion asserting that Student has filed an amendment to an existing complaint as opposed to a complete amended complaint as required.[1] Antioch erroneously concluded that Student's amended complaint was not complete. Antioch's confusion is understandable as the document filed is titled: "Proposed Amendment to Due Process Complaint-Attachment to Due Process Complaint". However, a review of the document filed, coupled with Student's representation in the motion papers that this is intended to be a self-contained amended complaint, reveals that the amended complaint is complete and the procedural requirements have been met.

The motion to amend is timely. The amended complaint contains all allegations in a single document. The motion to amend is granted. The amended complaint shall be deemed

[1] Antioch also opposes this motion on the grounds that certain issues are improperly pled. Those assertions are not properly raised in opposition to a motion to amend. Nothing in this order precludes Antioch from filing any motions pertaining to the substance of the pleadings they deem necessary.

filed on the date of this order. All previously scheduled dates in this matter are hereby VACATED. OAH will issue a scheduling order with the new dates.

IT IS SO ORDERED.

DATE: August 10, 2018

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Penelope S. Pahl
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PENELOPE S. PAHL
Administrative Law Judge
Office of Administrative Hearings