BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

SANTA CLARA COUNTY OFFICE OF EDUCATION, DISCOVERY CHARTER SCHOOL 2, AND SUNNYVALE SCHOOL DISTRICT.

OAH CASE NUMBER 2019090001

ORDER GRANTING MOTION TO AMEND COMPLAINT AND DENYING MOTION TO BIFURCATE DUE PROCESS HEARING

On August 30, 2019, Student filed a Due Process Hearing Request, referred to as a complaint, with the Office of Administrative Hearings, naming Santa Clara County Office of Education and Discovery Charter 2. The Office of Administrative Hearings is referred to as OAH. On October 8, 2019, Student filed a Motion to Amend the Due Process Hearing Request and an amended complaint, naming Sunnyvale School District as an additional respondent. In his Motion to Amend Student also requested to bifurcate the due process hearing. On October 11, 2019, OAH granted Student's Motion to Amend and denied the Motion to Bifurcate.

On October 25, 2019, Sunnyvale filed a Notice of Insufficiency. On October 29, 2019, OAH issued an order determining Student's Amended Complaint insufficient as to Sunnyvale. OAH dismissed Sunnyvale as a party on November 13, 2019.

On November 19, 2019, Student filed with OAH a second Motion to Amend Due Process Complaint. On November 20, 2019, Student filed with OAH a Second Amended Complaint, which included a request to bifurcate the due process hearing. Student's second request to bifurcate is identical to his first and Student neglects to acknowledge OAH's order denying bifurcation. Student's Second Amended Complaint names Sunnyvale as a party once again, along with Santa Clara and Discovery.

Santa Clara and Discovery filed a non-opposition on November 26, 2019, but requested that OAH keep the current dates.

An amended complaint may be filed when the other party consents in writing and is given the opportunity to resolve the complaint through a resolution session, or when the hearing officer grants permission. The hearing officer may grant permission at any time more than five days before 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).)

The motion to amend was filed more than five days prior to the due process hearing. OAH has received written consent to the amendment with respect to Santa Clara and Discovery. Therefore, it is timely and is granted. The amended complaint shall be deemed filed on the date of this order. With regard to any claims against

Sunnyvale, the statute of limitations shall be calculated based upon the date Student filed the Second Amended Complaint. 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

DATED: December 06, 2019

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Cararea Lucier
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Cararea Lucier
Administrative Law Judge
Office of Administrative Hearings