BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT

v.

SAN DIEGUITO UNION HIGH SCHOOL DISTRICT.

OAH CASE NUMBER 2022030378

ORDER GRANTING FIFTH MOTION TO AMEND COMPLAINT

JUNE 8, 2022

On March 11, 2022, Student filed a Due Process Hearing Request, referred to as a complaint, with the Office of Administrative Hearings, naming San Dieguito Union High School District. The Office of Administrative Hearings is referred to as OAH. On June 2, 2022, Student filed a Motion to Amend the Due Process Hearing Request and an amended complaint. San Dieguito filed a statement of non-opposition to the motion on June 6, 2022.

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 and San Dieguito has provided a written statement of non-opposition to the amendment. Therefore, the motion has been timely made. Student, has, however, made a practice of amending his due process hearing request.

Student's first motion to amend was made on March 22, 2022, and granted on March 24, 2022. Another motion was made on April 5, 2022, and granted on April7, 2022. A third motion was made on April 26, 2022, and granted on May 5, 2022. A fourth motion was made on May 13, 2022, but was denied without prejudice on June 1, 2022. That amendment request was denied because Student presented a document with attachments instead of a single unitary complaint. The order denied the request without prejudice to Student's ability to resubmit an amendment request for a complaint that included all issues in a single document. Student's current request includes a single document containing all issues.

Student seeks to add five issues to his complaint. Issue 9 of the newest amended complaint asserts that Student failed to receive meaningful specialized academic instruction in his English class. Issue 10 asserts that Student was not given adequate support on his reading and comprehension goals. That issue includes an allegation that Parents found out in late May that his instructor had not been adequately trained. Issue 11 asserts that standardized test results from May 16, 2022 required a response by San Dieguito. Issue 12 asserts that Parents found out in early April that other similarly situated students were offered a reading intervention that was not offered to Student. Issue 13 asserts that Parents were not provided with speech and language data which

should have been part of Student's educational records. Issue 14 asserts that Parents were told in early March that a behavioral improvement tool that had been promised was not being used with Student because it had not been implemented by the school district. Of the five new issues, only issues 10, 11, and 13 could not clearly have been added as part of the April 26, 2022 amendment request.

Student's May 13, 2022 request to add these issues was denied without prejudice, and the flaws of that request have been corrected in this motion. The request is timely made, unopposed, and will be granted. However, the repeated requests to amend Student's due process requests are becoming excessive. Any further requests to amend the complaint in this matter must be accompanied by an explanation as to why the proposed amendments could not have been made earlier and why hearing the new issues contemporaneously with the new issues would be an efficient use of resources. In addition, any further requests for amendment will be weighed against OAH's need to resolve cases in an orderly and expeditious fashion.

The amended complaint shall be deemed filed on the date of this order. All applicable timelines shall be reset as of the date of this order. Student included with his motion a statement expressing the hope that hearing dates of July 12 through 14. 2022, could be assigned to the new matter. That is not possible unless the parties agree in

writing to waive the 30 day resolution session period and request to move the prehearing conference into that period. OAH will issue a scheduling order with the new dates.

IT IS SO ORDERED.

Chris Butchko

Chris Butchko
Administrative Law Judge
Office of Administrative Hearings