BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

SADDLEBACK VALLEY UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2023040444

ORDER GRANTING REQUEST FOR RECONSIDERATION, GRANTING AMENDMENT OF STUDENT'S COMPLAINT, AND GRANTING MEDIATION

SEPTEMBER 25, 2023

On September 22, 2023, Administrative Law Judge Claire Yazigi, Office of Administrative Hearings, held a prehearing conference by videoconference. The Administrative Law Judge is called an ALJ. The Office of Administrative Hearings is called OAH. The prehearing conference is called a PHC.

Richard Isaacs, Attorney at Law, appeared on behalf of Student. Lindsay Steinmetz, Attorney at Law, appeared on behalf of Saddleback Valley Unified School District. The PHC was recorded.

At PHC, Student moved for reconsideration of OAH's denial of Student's motion to amend. Saddleback Valley did not oppose reconsideration. In the alternative, Student moved to continue due process hearing to accommodate mediation. Saddleback Valley did not oppose Student's alternative motion for continuance and joined in Student's request for mediation.

Separately, Saddleback Valley, at PHC, moved to continue due process hearing based on the unavailability of its counsel on the presently scheduled hearing dates. Student did not oppose Saddleback Valley's motion.

Based upon discussion with the parties, the ALJ issues the following order:

STUDENT'S MOTION FOR RECONSIDERATION

On September 21, 2023, the undersigned Administrative Law Judge issued an order denying Student's motion to amend Student's complaint. The denial was based on the age of the case and on the fact that Student's proposed amendment sought to add issues relating to a new, May 19, 2023, IEP offer. t.

At PHC, Student requested reconsideration of the order denying amendment. Student was excused from filing the motion three business days prior to PHC as otherwise required, since the order denying amendment was served on the parties one day prior to PHC. At PHC, Saddleback Valley expressed its support of Student's motion for reconsideration.

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, generally within ten days. (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.)

At PHC, Student offered new facts to support reconsideration. Student explained more fully the importance of having the benefit of an August 24, 2023, psychoeducational assessment report in determining Student's proper placement, given that Student sought a residential placement in both the original and amended complaint. Student also mentioned that having to file another complaint would be prohibitive to Student, given family circumstances. Further, Saddleback Valley stated that not only did it not oppose the amendment of Student's complaint, but that it believed amendment was in both parties' interests. Based on the introduction of the aforementioned information at PHC, the undersigned agreed to reconsider Student's motion to amend.

On reconsideration, Student's motion to amend is granted. 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. Further, Saddleback Valley supported amendment of Student's complaint. Student's motion to amend was timely and is granted.

STUDENT AND SADDLEBACK VALLEY'S RESPECTIVE MOTIONS TO CONTINUE

Because the undersigned granted Student's motion to amend Student's complaint, which will result in new hearing dates, the parties' respective motions to continue are moot and will not be addressed. The parties are advised that OAH is unlikely to grant any future request to continue absent extraordinary good cause.

The undersigned did, however, find good cause to schedule mediation. The parties have not yet participated in mediation. Saddleback Valley canceled the mediation set for September 18, 2023, awaiting the outcome of Student's motion to amend. Mediation is hereby granted.

ORDER:

1. Student's motion to amend Student's complaint is granted.
2. 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.

3. All dates currently set in this matter are vacated. A new scheduling order will be issued.
4. A full-day mediation shall be held on October 9, 2023, from 9:00 am to 4:30 pm.

IT IS SO ORDERED.

Claire Yazigi

Claire Yazigi
Administrative Law Judge
Office of Administrative Hearings