BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

MT. DIABLO UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2022090723

ORDER GRANTING MOTION TO AMEND COMPLAINT AND DETERMINING ORIGINIAL NOTICE OF INSUFFICIENCY MOOT

OCTOBER 12, 2022

On September 22, 2022, Student filed a Due Process Hearing Request, referred to as a complaint, with the Office of Administrative Hearings, naming Mt. Diablo Unified School District. The Office of Administrative Hearings is referred to as OAH. On October 7, 2022, Mt. Diablo filed a notice of insufficiency to Student's complaint. Before a sufficiency determination could be made, Student filed an amended complaint on October 11, 2022. Mt. Diablo opposed Student's motion to amend on October 12, 2022,

and also filed a second notice of insufficiency to the amended complaint. Mt. Diablo argued the amended complaint failed to comport with the pleading requirements under the IDEA. The arguments raised by Mt. Diablo in its opposition essentially challenge the sufficiency of the amended complaint. That motion will be ruled on in a separate order.

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).)

Mt. Diablo is correct that Student failed to file a formal motion along with Student's proposed amended complaint. Student is on notice that a motion to amend should be filed with the accompanying amended complaint. However, Student submitted a complete amended complaint setting forth all claims at issue in this matter. Additionally, the amended complaint was filed shortly after the initial filing. For the purposes of this case, the amended complaint shall be deemed both a motion and a proposed amended complaint. The motion to amend was filed more than five days prior to the due process hearing. Therefore, it is timely and is granted. 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. OAH will issue a scheduling order with the new dates.

Granting Student's motion to amend renders Mt. Diablo's initial notice of insufficiency moot as to the original complaint.

IT IS SO ORDERED.

Tiffany Gilmartin
Tiffany Gilmartin (Oct 13, 2022 08:28 PDT)

Tiffany Gilmartin

Administrative Law Judge

Office of Administrative Hearings