BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. FRUITVALE SCHOOL DISTRICT.	OAH Case No. 2018070377 ORDER DENYING FRUITVALE'S MOTION TO EXTEND PROCEDURAL TIMELINES

On July 5, 2018, Student filed a Due Process Hearing Request (complaint) with the Office of Administrative Hearings, naming Fruitvale School District.

On August 10, 2018, Fruitvale filed a Motion to Extend Procedural Timelines contending that Student's prehearing conference statement, dated August 9, 2018, added additional issues and time beyond the statute of limitations than what was originally plead in the complaint. Because of this, Fruitvale requested that OAH treat the prehearing conference statement as an amended complaint and reset the procedural timelines accordingly.

On August 13, 2018, Student filed an amended prehearing conference statement, and on August 14, 2018, Fruitvale filed a Notice of Errata, making the same argument regarding the amended prehearing conference statement as the prehearing conference statement, and requesting to extend the procedural timelines. On August 15, 2018, Student opposed Fruitvale's Motion to Extend Procedural Timelines, arguing that he did not file an amended complaint and that the original complaint put Fruitvale on notice of the issues and timeframes set forth in the prehearing conference statement and amended prehearing conference statement. Additionally, Student argued that resetting the timelines would prejudice Student because a new school year has started without a resolution in this case and without the educational services needed for Student.

APPLICABLE LAW AND DISCUSSION

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).)

Fruitvale's request is denied. Student did not file an amended complaint in this matter. A motion to extend procedural timelines is an inappropriate vehicle for raising a challenge to the statute of limitations or scope of issues in Student's prehearing conference statement and amended prehearing conference statement.

IT IS SO ORDERED.

DATE: August 15, 2018

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Cynthia Fritz
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CYNTHIA FRITZ
Administrative Law Judge
Office of Administrative Hearings