BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. GILROY UNIFIED SCHOOL DISTRICT, SILICON VALLEY FLEX ACADEMY, SANTA CLARA COUNTY OFFICE OF EDUCATION, EL DORADO COUNTY CHARTER SELPA, AND CALIFORNIA DEPARTMENT OF EDUCATION.	OAH Case No. 2018010953 ORDER GRANTING REQUEST FOR RECONSIDERATION AND DENYING OPPOSITION TO MOTION TO AMEND

On May 21, 2018, the undersigned administrative law judge issued an order granting, in part, Student's motion to amend his complaint to include four additional respondents, including El Dorado County Charter SELPA.[1] On May 21, 2018, El Dorado filed an opposition to Student's motion to amend on the grounds that it is not a proper party. On May 22, 2018, El Dorado filed a motion for reconsideration of the order granting Student's motion to amend.

APPLICABLE LAW

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. (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.)

[1] Student's request to add K12, Incorporated as a party was denied given the May 17, 2018 Order granting on reconsideration K12's motion to be dismissed a party, and the May 18, 2018 Order denying Student's request for reconsideration of the order of dismissal.

Amended Complaints

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).)

DISCUSSION

El Dorado timely alleges new facts, circumstances, or law in support of the requested reconsideration as detailed in its opposition. This opposition was not received nor considered by the undersigned at the time of issuing the order granting Student's motion to amend. Accordingly, El Dorado's request for reconsideration is granted.

El Dorado maintains that it is not a proper party to this action as it is not the public agency responsible for providing Student with special education and related services and it has not been involved in any decision regarding Student's education. However, El Dorado's assertion that it is not a proper party is not a basis for denying a motion to amend a complaint.[2] On reconsideration, Student's motion to amend is granted in part.

ORDER

1. El Dorado County Charter SELPA's Motion for Reconsideration is Granted.

2. On reconsideration, El Dorado County Charter SELPA's opposition to Student's motion to amend is DENIED.

[2] Nothing in this Order prevents any respondent from filing a motion to be dismissed as a party. As of the time of writing this Order, California Department of Education had filed a motion to dismiss on May 22, 2018, which will be addressed in a separate order.

3. All dates to remain on calendar.

IT IS SO ORDERED.

DATE: May 23, 2018

DocuSigned by:
Theresa Ravandi
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THERESA RAVANDI
Administrative Law Judge
Office of Administrative Hearings