BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. BERKELEY UNIFIED SCHOOL DISTRICT.	OAH Case No. 2015030848 ORDER DENYING MOTION TO DISMISS WITHOUT PREJUDICE

On March 18, 2015, Student filed a request for a due process hearing naming Berkeley Unified School District as respondent. On April 8, 2015, Berkeley filed a motion to dismiss Student's due process complaint asserting that the issue alleged is barred by the doctrine of res judicata and collateral estoppel pursuant to the final decision reached in *Student v. Berkeley Unified School District* ,(Nov. 17, 2014) OAH Case No. 2014040781.

On April 14, 2014, Student filed an opposition to Berkeley's motion to dismiss. On the same day Student also filed a motion to amend his complaint. Student's motion to amend his complaint was granted on April 20, 2015, and all applicable timelines were reset that day.

Filing an amended complaint renders the motion to dismiss moot because the motion was directed to a complaint that is no longer being litigated. Accordingly, the motion to dismiss is denied at this time without prejudice. Nothing in this order precludes Berkeley from filing a motion to dismiss the amended complaint if it so chooses.

IT IS SO ORDERED.

DATE: April 20, 2015

/s/
JOY REDMON
Administrative Law Judge
Office of Administrative Hearings