BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

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| In the Matter of:<br><br>PARENTS ON BEHALF OF STUDENT,<br><br>v.<br><br>CHULA VISTA ELEMENTARY SCHOOL DISTRICT. | OAH Case No. 2017030442<br><br>ORDER FOLLOWING PREHEARING CONFERENCE; ORDER GRANTING MOTION TO AMEND COMPLAINT |

On May 15, 2017, a telephonic prehearing conference was held before Administrative Law Judge Darrell Lepkowsky, Office of Administrative Hearings. Paul A. Hefley, Jr., Attorney at Law, appeared on behalf of Parents on behalf of Student. Pamela Townsend, Attorney at Law, appeared on behalf of the Chula Vista Elementary School District. The ALJ recorded the PHC.

## MOTION TO AMEND

Student filed her complaint on March 8, 2017. On March 15, 2017, Student filed a motion to amend her complaint. Her proposed amended complaint raises several issues that allegedly occurred during the same period of time covered by Student's original complaint and are interrelated to the issues in that complaint.

During the PHC, District orally opposed the motion to amend. District's primary objection was based on the prejudice to Student that would occur since the filing of an amended complaint will reset the timelines for a decision. District also expressed concern that witnesses would not be available during the summer, when the hearing on the amended complaint would most likely be scheduled.

Student responded that the new allegations raised were based on information that counsel for Student had not been aware of at the time Student filed her new complaint. Student also does not believe she will be prejudiced by the short delay occasioned by the resetting of the timelines for the amended complaint.

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).)

Here, Student's motion to amend is timely, as it was filed more than five business days prior to the scheduled hearing. Additionally, denying Student's motion would result in having two hearings held concerning issues that occurred over the same period of time and which are related to District's most recent individualized education program offer. Holding one hearing on these issues furthers the interests of judicial economy and avoids possible inconsistent rulings on issues that overlap as to time as well as to subject matter.

Student's motion to amend is therefore 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.

IT IS SO ORDERED.

DATE: May 16, 2017

DocuSigned by:
Darrell Lepkowsky
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DARRELL LEPKOWSKY
Administrative Law Judge
Office of Administrative Hearings