BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH CASE NO. 2013020244
v.	ORDER FOLLOWING PREHEARING CONFERENCE PERMITTING FILING OF FIRST AMENDED COMPLAINT AND DENYING MOTION TO QUASH
LOS GATOS/SARATOGA JOINT UNION SCHOOL DISTRICT.	

On May 20, 2013, a telephonic prehearing conference (PHC) was held before Administrative Law Judge (ALJ) Troy Taira, Office of Administrative Hearings (OAH). David Tollner, Attorney at Law, appeared on behalf of Student. Elizabeth Rho-Ng, Attorney at Law, and Carrie Bosco, Special Education Director, appeared on behalf of Los Gatos/Saratoga Joint Unified School District (District). The PHC was recorded.

The due process hearing in this case is scheduled to begin on May 28, 2013. On May 17, 2013, Student filed a document entitled "First Amended Due Process Hearing Notice." The document is deemed to be Student's request to amend his complaint. At the PHC, District objected to Student's request to amend his complaint. Based on discussion of the parties, the ALJ issues the following order:

Request to Amend

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).)

Student's original complaint raises issues from his February 11, 2011, October 11, 2011, August 30, 2012, October 12, 2012, and October 24, 2012, individualized education programs (IEPs) regarding Student's unique needs related to his disability, and appropriate goals and related services. Student now asserts that District held an IEP team meeting on May 14, 2013. Based on the results of the meeting, Student contends District fails to support the goals from his last IEP, and fails to offer and provide supports, services, and accommodations, to address his unique needs related to his disability. Student proposes to

amend his complaint to seek a determination whether the May 14, 2013 IEP constituted a free appropriate public education. The issues relating to the May 14, 2013 IEP also relate to the issues raised in the original complaint regarding Student's unique needs related to his disability, and appropriate goals and related services, and will likely involve the same witnesses. It is in the best interests of justice and judicial efficiency to avoid litigating many aspects of the issues twice.

Student's request to amend his complaint is reasonable, timely, and is granted. Student's request is deemed Student's First Amended Complaint, filed as of the date of this order. The timeline for this matter will be reset starting on the date of this order. All dates now calendared in this matter are vacated and OAH will issue a new scheduling order.

Motion to Quash

On May 15, 2013, District filed a motion to quash Student's subpoena duces tecum. At the PHC, following the granting of the filing of the amended complaint, Student withdrew his subpoenas. District's motion to quash was therefore rendered moot. Accordingly, District's motion to quash is denied. Should Student reissue the subpoena duces tecum, District may file any appropriate motion.

ORDER

1. Student's motion to amend his complaint is granted. The amended complaint is deemed filed as of the date of this order. All applicable time lines for the issuance of a written decision shall recommence. OAH shall issue a new scheduling order.

2. District's motion to quash is denied.

Dated: May 20, 2013

/s/
TROY K. TAIRA
Administrative Law Judge
Office of Administrative Hearings