

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

HACIENDA LA PUENTE UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2023100784

ORDER GRANTING REQUEST FOR RECONSIDERATION
AND CONFIRMING ORDER
GRANTING MOTION TO AMEND

JANUARY 25, 2024

On January 19, 2024, the undersigned Administrative Law Judge issued an order granting Student's motion to amend complaint. On January 22, 2024, Hacienda La Puente Unified School District, called Hacienda, filed a motion for reconsideration of order granting student's motion to amend complaint.

OAH 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, generally within ten days. (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.)

Hacienda offers new facts, circumstances or law to support reconsideration. Hacienda contends it filed an opposition to Student's motion to amend on Friday, January 20, 2024, at 5:17 p.m., and further that it notified OAH staff on January 17, 2024, of its intention to file an opposition to Student's motion to amend. Hacienda further contends OAH should not have ruled on the motion until January 22, 2024. Hacienda argues Student's motion was granted on January 19, 2024, before it was required to file an opposition. Hacienda timely filed the request for reconsideration. Based on the foregoing, the motion for reconsideration is granted.

Student filed a due process hearing request, called a complaint, on October 23, 2023. On December 4, 2023, OAH issued an order granting the parties' joint request to schedule mediation. Student filed a motion to amend and amended complaint on January 17, 2024. The due process hearing was scheduled to begin January 30, 2024.

Hacienda asserts Student's motion to amend should be denied because it was filed 11 days before the due process hearing scheduled for January 30, 2024. Hacienda argues the amended complaint was filed for the purpose of delaying the due process hearing. Hacienda contends the amended complaint adds one new allegation regarding an assessment plan pre-dating the October 23, 2023, due process complaint and should have been included in Student's complaint. Hacienda further argues the additional claim relating to an amended individualized education program, called IEP, held on October 26, 2023, does not constitute grounds to amend the complaint because there are frequently new IEP team meetings held after the filing of a complaint.

An amended complaint may be filed when the other party consents in writing and is given the opportunity to resolve the complaint through a resolution session, or when the hearing officer grants permission. The hearing officer may grant permission at any time more than five days before 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).)

Hacienda's argument that Student's motion to amend was filed to delay this proceeding is not persuasive. The motion to amend was filed more than five days prior to the due process hearing. The amended complaint contains allegations relating to an October 26, 2023, IEP amendment, specifically it alleges the IEP amendment failed to offer Student appropriate services to address Student's needs in behavior, transition, educationally related mental health, and academics. Although Hacienda argues allowing a motion to amend could result in "endless requests to amend," here, Student has not previously filed a motion to amend, and Student's motion was filed more than five days prior to the due process hearing. Further, the new allegations relate to an IEP amendment developed shortly after the original complaint was filed and concerning the same school year. Accordingly, Student's motion to amend is granted.

ORDER

On reconsideration, OAH's January 19, 2024, order granting Student's motion to amend stands. All dates set in this matter are confirmed.

Jennifer Kelly

Jennifer Kelly

Administrative Law Judge

Office of Administrative Hearings