BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: STUDENT, v. WEST CONTRA COSTA UNIFIED SCHOOL DISTRICT.	OAH Case No. 2015090002 ORDER GRANTING MOTION TO AMEND COMPLAINT; DENYING MOTION FOR RECONSIDERATION AND/OR PETITION TO CORRECT CLERICAL ERROR

On August 27, 2015, Student filed a Due Process Hearing Request, naming West Contra Costa Unified School District. Student attempted to file a Motion for Leave to File an Amended Complaint and first amended complaint on October 20, 2015, but did not provide the correct case caption or case number. Having received Student's motion to amend and amended complaint, West Contra Costa filed a Non-Opposition to Student's Motion for Leave to Amend on October 22, 2015. On October 23, 2015, Student filed: 1) a Corrected Motion for Leave to File an Amended Complaint, along with an amended complaint; and 2) a Motion for Reconsideration and/or Petition to Correct Clerical Error with a supporting declaration.

APPLICABLE LAW AND DISCUSSION

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 seeks to amend her original complaint to include the allegations that following Student's May 5, 2014 request, West Contra Costa failed to either provide transportation or reimburse Parents for mileage for two-round trips to and from Bayhill High School; and failed to provide independent psycho-educational, speech and language, and occupational therapy educational evaluations pursuant to Student's May 5, 2014 request. Had Student provided the correct case information, Student's motion to amend the complaint would have been timely filed on October 20, 2015, more than five days prior to the due process hearing date scheduled for October 27, 2015. West Contra Costa has filed a non-opposition to Student's motion. Therefore, Student's motion to amend is granted.

Student's Motion for Reconsideration and/or Petition to Correct Clerical Error is denied given the granting of her corrected motion for leave to amend.

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.

ORDER

1. Student's motion to amend is granted. The amended complaint shall be deemed filed on the date of this order.

2. All applicable timelines shall be reset as of the date of this order. OAH will issue a scheduling order with the new dates.

3. Student's motion for reconsideration and/or petition to correct clerical error is denied as moot.

DATE: October 23, 2015

/s/
THERESA RAVANDI
Administrative Law Judge
Office of Administrative Hearings