BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

TEMECULA VALLEY UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2020100509

ORDER GRANTING REQUEST FOR RECONSIDERATION, AND ORDER GRANTING MOTION AMEND

NOVEMBER 02, 2020

On October 30, 2020, the undersigned Administrative Law Judge issued an order that denied Student's Motion Amend the Complaint as Student did not serve a copy of the motion and amended complaint on the attorney for Temecula Valley Unified School District. On November 2, 2020, Student filed a motion for reconsideration as Temecula Valley did not serve its Notice of Representation on Student's attorney on October 21, 2020, as noted in the notice's proof of service. The Office of Administrative Hearings did not receive a response from Temecula Valley.

APPLICABLE LAW

The Office of Administrative Hearings 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 of time, 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.)

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).)

DISCUSSION

RECONSIDERATION

Student offers new facts, circumstances or law. to support reconsideration. Student establishes by way of declaration of counsel and emails between counsel that Temecula Valley did not serve its Notice of Representation on Student's counsel on October 21, 2020, but on October 27, 2020, after Student filed the amended complaint on Temecula Valley itself. Further, counsel for Temecula Valley received a copy of the amended complaint from its client, which led to the discovery about the service of the Notice of Representation. Therefore, the motion for reconsideration is granted.

MOTION TO AMEND

The motion to amend was filed more than five days prior to the due process hearing, and OAH received no opposition from Temecula Valley. Therefore, it is timely and is 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.

ORDER

1. Student's Motion for Reconsideration is granted.
2. Student's Motion to Amend is granted.

IT IS SO ORDERED.

Peter Paul Castillo

Peter Paul Castillo
Presiding Administrative Law Judge
Office of Administrative Hearings