BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. SAN FRANCISCO UNIFIED SCHOOL DISTRICT.	OAH Case No. 2018120446 ORDER GRANTING REQUEST FOR RECONSIDERATION AND MOTION TO AMEND COMPLAINT

On December 21, 2018, the undersigned administrative law judge issued an order denying Student's motion to amend, without prejudice, due to Student's omission of a proposed amended complaint. On December 28, Student filed a motion to amend his due process hearing request and a proposed amended complaint. This motion is deemed a request for reconsideration of the order denying his motion to amend. Student's motion is unopposed by San Francisco Unified School District.

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. (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.)

DISCUSSION

Reconsideration

Student's motion for reconsideration is timely because it was received within ten days after issuance of the order. Student filed an amended complaint and a proposed amended complaint in support of his request reconsideration. Accordingly, Student's request for reconsideration is Granted.

Motion 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).)

On reconsideration, Student's motion to amend is timely as it was filed more than 5 days before the due process hearing currently scheduled for January 22, 2019. Student's motion for reconsideration included his proposed amended complaint.

ORDER

Student's Motion for Reconsideration is Granted.

Based on reconsideration, Student's motion to amend 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.

IT IS SO ORDERED.

DATE: December 31, 2018

DocuSigned by:
Rita Defilippis
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RITA DEFILIPPIS
Administrative Law Judge
Office of Administrative Hearings