BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

BERKELEY UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2024120465

# ORDER FOLLOWING PREHEARING CONFERENCE FOR HEARING BY VIDEO CONFERENCE; ORDER GRANTING MOTION TO AMEND COMPLAINT; AND ORDER DEEMING MOTION TO COMPEL PRODUCTION OF RECORDS AS MOOT.

JANUARY 21, 2025

On January 17, 2025, Administrative Law Judge Claire Yazigi, Office of Administrative Hearings, held a prehearing conference by videoconference. The Administrative Law Judge is called an ALJ. The Office of Administrative Hearings is called OAH. The prehearing conference is called a PHC.

Robin Miller, Attorney at Law, appeared on behalf of Student. David Mishook, Attorney at Law, appeared on behalf of Berkeley Unified School District. ALJ Jeanie Min attended PHC in an observatory capacity. The PHC was recorded. Based upon discussion with the parties, the ALJ issues the following order:

## MOTION TO AMEND COMPLAINT

On December 12, 2024, Parents on behalf of Student filed a Due Process Hearing Request, referred to as a complaint, with the Office of Administrative Hearings, naming Berkeley Unified School District as respondent. The Office of Administrative Hearings is referred to as OAH. On January 14, 2025, Student filed a Motion to Amend the Due Process Hearing Request and an amended complaint. The parties were given an opportunity to address and argue the motion at PHC and did so.

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).)

The motion to amend was filed more than five days prior to the due process hearing. While Berkeley did not agree to Student's attempt to extend the statute of limitations in the amended complaint, Berkeley had no objection to the amendment of Student's complaint. Therefore, the amendment was timely and was granted at PHC. The amended complaint shall be deemed filed on the date of PHC, or January 17, 2025. All applicable timelines shall be reset as of the date of this order. OAH will issue a scheduling order with the new dates.

## MOTION TO COMPEL PRODUCTION OF RECORDS

On January 14, 2025, student timely filed a Motion to Compel Production of Records. The undersigned heard oral argument from both parties on the motion, and took the matter under submission for ruling. After being considered under submission, Student's motion to compel is ruled to be moot. It was made before OAH granted amendment of the complaint on January 17, 2025. The motion to compel production of records is necessarily related to the old complaint and the facts and circumstances surrounding it. Nothing in this Order shall prevent the future filing of a motion to compel production of records in this case.

## ORDER INCLUDES ALL RULINGS

This Order includes all rulings made at the prehearing conference. Any discussion and conversation not referenced in this Order is not binding on the ALJ conducting the hearing and may not be relied upon by the parties. The parties should be aware that, at hearing, the ALJ conducting the hearing has discretion to reconsider any part of this Order.

## IT IS SO ORDERED.

Claire Yazigi

Claire Yazigi
Administrative Law Judge
Office of Administrative Hearings