BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. ANTIOCH UNIFIED SCHOOL DISTRICT.	OAH Case No. 2017061033 ORDER GRANTING REQUEST FOR RECONSIDERATION AND GRANTING STUDENT'S MOTION TO AMEND DUE PROCESS COMPLAINT

On November 6, 2017, the undersigned administrative law judge issued an order that granted Student's Motion to Amend and denied Student's Motion to Quash. On November 6, 2017, Antioch Unified School District filed a request for reconsideration.

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

Request for Reconsideration

Antioch requests reconsideration on the grounds that the undersigned ALJ issued an order granting Student's Motion to Amend prior to the expiration of time allowed for Antioch to oppose the Motion to Amend, and without considering Antioch's declaration opposing the Motion to Amend which was filed subsequent to the order.

The request for reconsideration is timely because it was received the same day as the issuance of the order.

Accordingly, Antioch's request for reconsideration is Granted.

Motion to Amend Due Process Complaint

APPLICABLE LAW

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).)

DISCUSSION

Antioch's opposition to Student's amended complaint is based on claims that Student's amended complaint is time barred by the statute of limitations, and that the filing of Student's Motion to Amend within 11 days of the due process hearing is not justified and is untimely and prejudicial to Antioch because Counsel for Antioch already prepared for the due process hearing on Student's original complaint.

On reconsideration, the undersigned ALJ's order granting Student's Motion to Amend was proper. Antioch's claim that Student's amended complaint is untimely and prejudicial to Antioch is rejected. Student's amended complaint was filed within 5 days of the scheduled due process hearing. Antioch's claim that Student's amended complaint is time barred is not decided in this reconsideration and Antioch may file a separate motion regarding that claim.

ORDER

Antioch's Motion for Reconsideration is Granted.

Based on reconsideration of Student's Motion to Amend, Student's Motion to Amend is Granted.

IT IS SO ORDERED.

DATE: November 8, 2017

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