BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

WESTERN PLACER UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2019091085

ORDER GRANTING REQUEST FOR RECONSIDERATION AND DEEMING FIRST AMENDED COMPLAINT FILED ON OCTOBER 22, 2019

On September 26, 2019, Student filed a due process hearing request, called a complaint, with the Office of Administrative hearings, naming Western Placer Unified School District. The Office of Administrative hearings is called OAH. OAH scheduled the expedited prehearing conference for October 21, 2019, and the expedited due process hearing for October 29, 2019.

On October 3, 2019, Western Placer filed a notice of insufficiency as to Student's complaint.

On October 8, 2019, OAH found Student's complaint partially insufficient. It ordered a first amended complaint to be filed within 14 days of the date of the order. If Student failed to file a first amended complaint within the timeframe, the insufficient issues would be dismissed. According to the order, If Student filed a first

amended complaint within the designated timeframe, a scheduling order would reset both the expedited and unexpedited portions of the complaint.

On October 22, 2019, Student filed a motion to amend the complaint, consistent with the October 8, 2019 insufficiency order.

On October 25, 2019, Western Placer filed an opposition to Student's motion to amend the complaint. The same day, the undersigned Administrative Law Judge issued an order granting Student's motion to amend the complaint and to reset the expedited and unexpedited portions of the complaint, as stated in the October 8, 2019 order.

On October 28, 2019, Western Placer file a Motion for Reconsideration stating that the Order granting Student's motion to amend the complaint is untimely, as it was ordered four days before the due process hearing, not five, as contemplated under the Individuals with Disabilities Act.

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.)

A hearing officer may grant permission to amend a due process hearing complaint, except that the hearing officer may only grant such permission at any time

not later than five days before the due process hearing occurs. (20 U.S.C. § 1415 subd. (c)(2)(E)(i)(II).)

DISCUSSION

Western Placer's motion was filed within a reasonable time after the initial Order Granted Motion to Amend Complaint was issued. Additionally, Western Placer offers law in support of its motion. Thus, Western Placer's Motion for Reconsideration is granted.

Upon reconsideration, the undersigned Administrative Law Judge vacates the October 25, 2019 Order Granting Motion to Amend Complaint.

Amended complaints filed pursuant to an insufficiency order, as is the case here, are automatically granted and filed on the date filed. Thus, Student's request to amend Student's complaint should have been deemed filed on October 22, 2019. Accordingly, Student's request to file a first amended complaint is granted and deemed filed on October 22, 2019.

A new Scheduling Order will be issued consistent with the first amended complaint filing date, October 22, 2019.

ORDER

1. Western Placer's Motion for Reconsideration is granted.

2. The October 25, 2019 Order Granted Motion to Amend Complaint is vacated.

3. Student's First Amended Complaint is deemed filed on October 22, 2019.

4. All applicable timelines shall be reset as of October 22, 2019. OAH will issue a new Scheduling Order with the new dates.

IT IS SO ORDERED.

DocuSigned by:
Cynthia Fritz
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DATED: October 28, 2019

Cynthia Fritz
Administrative Law Judge
Office of Administrative Hearings