BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

SALINAS UNION HIGH SCHOOL DISTRICT.

OAH CASE NUMBER 2023040286

ORDER DENYING MOTION TO AMEND COMPLAINT

APRIL 28, 2023

On April 7, 2023, Student filed a Request for Due Process Hearing, referred to as a complaint, with the Office of Administrative Hearings, naming Salinas Union High School District. The Office or Administrative Hearings is referred to as OAH. On April 10, 2023, OAH issued a scheduling order setting dates for both expedited and non-expedited prehearing conferences and hearings as one claim potentially gave rise to expedited and non-expedited issues.

On April 24, 2023, the undersigned convened the prehearing conference for the expedited hearing, scheduled for May 3 and 4, 2023. The parties discussed the expedited issues. Once clarified, the undersigned determined, and the parties agreed, that Student's complaint did not include any non-expedited issues. Salinas moved to vacate the dates for the non-expedited prehearing conference and non-expedited

hearing. Counsel for Student objected on the grounds that he planned to file an amended complaint with non-expedited issues. Salinas's request to vacate non-expedited dates was denied. On April 28, 2023, OAH issued an order granting the undersigned's reconsideration of its ruling and granting Salinas's request to vacate non-expedited dates. Student's April 7, 2023 due process complaint contained only expedited issues and is currently set for an expedited hearing on May 3, and 4, 2023.

On April 26, 2023, Student filed a Motion to Amend the Due Process Hearing Request and an amended complaint. On April 27, 2023, Salinas filed a non-opposition.

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).)

Student's amended complaint seeks to "amend" Student's April 7, 2023 complaint by adding non-expedited issues, and two additional respondents. As Student's original complaint contained no non-expedited issues, there is nothing to amend. Additionally, all non-expedited dates were vacated.

Student's request to amend is therefore Denied. Student's request to amend is considered a new filing of a new due process complaint. OAH will open a new case and issue a scheduling order. The new OAH case will be deemed filed on the date of this order.

IT IS SO ORDERED.

Rita Defilippis

Rita Defilippis
Administrative Law Judge
Office of Administrative Hearings