BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. HAYWARD UNIFIED SCHOOL DISTRICT.	OAH Case No. 2018030249 ORDER GRANTING REQUEST FOR RECONSIDERATION AND DENYING OPPOSITION TO MOTION TO AMEND COMPLAINT

On May 17, 2018, the undersigned administrative law judge granted Student's motion to amend her complaint. On May 18, 2018, Hayward Unified School District filed a motion for reconsideration asserting it was deprived the customary three-days to respond to a motion. Hayward further asserts OAH's order was in conflict with the IDEA's express language permitting amendments, "at any time not later than 5 days before a due process hearing occurs," as the order was not issued until May 18, 2018, and the due process hearing scheduled to commence on May 22, 2018. Hayward further asserted that

APPLICABLE LAW

Motion for Reconsideration

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.) Hayward's motion for reconsideration is GRANTED.

Motion to Amend Complaint

Regarding motions to amend, United States Code, title 20, section 1415 subdivision (c)(2)(E)(i)(II) states in relevant part that a party may amend its due process complaint notice if, "the hearing officer grants permission, except that the hearing officer may only grant such permission at any time not later than 5 days before a due process hearing occurs." The due process hearing in this matter was set to commence May 22, 2018, and five days before was May 17, 2018.

Student filed a motion to amend on May 16, 2018. To provide an opportunity for Hayward to respond to the motion, OAH ordered the response due by 3:00 p.m. on May 17, 2018. Hayward timely submitted its opposition which was carefully considered. The same day, the undersigned granted Student's motion to amend, which is confirmed via the affixed electronic signature placed prior to 5:00 p.m. The parties received notice of the order on May 18, 2018; however, the order was timely made on May 17, 2018. Accordingly, OAH's order granting Student's motion to amend was timely and not in conflict with the IDEA.

IT IS SO ORDERED.

DATE: May 21, 2018

DocuSigned by:
Joy Redmon
5155E4ECA68C4B1...

JOY REDMON
Presiding Administrative Law Judge
Office of Administrative Hearings