BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

PLEASANTON UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2022050638

OAH CASE NUMBER 2022060907

ORDER GRANTING LEAVE TO AMEND COMPLAINT

SEPTEMBER 7, 2022

On May 18, 2022, Student filed a Due Process Hearing Request, referred to as a complaint, with the Office of Administrative Hearings, naming the Pleasanton Unified School District. The Office of Administrative Hearings is referred to as OAH. On August 25, 2022, Student filed a Motion to Amend the Due Process Hearing Request and an amended complaint. On August 29, 2022, Pleasanton filed an 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).)

This matter is a successor to *Student v. Pleasanton Unified Sch. Dist.*, OAH Case No. 2021100357, in which the undersigned issued a Decision on February 24, 2022, after five days of hearing.

Pleasanton argues that the proposed second amended complaint should be rejected because its allegations are partly an attack on the February 24, 2022, Decision, partly an attack on an August 18, 2022, order denying Student's motion for stay put, and partly a return to contentions already decided. Extensive portions of the proposed second amended complaint can arguably be so characterized, but Pleasanton's claim that Student does not allege violations in the time period after the February 24, 2022, Decision is inaccurate. Part of the proposed second amended complaint attacks offers of individualized education programs made by Pleasanton on March 26 and May 16 and 17, 2022. In addition, there are some substantive arguments still within the statute of limitations that the February 24, 2022, Decision did not decide.

Pleasanton is correct that large portions of the proposed second amended complaint are vulnerable to the attacks Pleasanton makes on them. Other portions make factual and legal arguments more appropriate for a brief. However, that is not a ground for denying leave to amend, and Pleasanton offers no authority to establish that a motion to amend can be used as a vehicle to reject allegations and arguments made in the proposed amended complaint. Pleasanton may challenge those allegations in other ways.

The hearing in these consolidated cases is now calendared to start on September 29, 2022. The motion to amend was filed more than five days prior to the due process hearing. Therefore, it is timely and is granted. The second amended complaint shall be deemed filed on the date of this order. All applicable timelines shall be reset as of the date of this order. OAH will issue a scheduling order with the new dates.

IT IS SO ORDERED.

Charles Marson

Charles Marson
Administrative Law Judge
Office of Administrative Hearings