BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2015091141
v.	ORDER VACATING ORDER TO SHOW CAUSE
SAN JOSE UNIFIED SCHOOL DISTRICT.	

A prehearing conference was set in this matter for November 6, 2015, at 10:00 a.m. The undersigned Administrative Law Judge made several unsuccessful attempts to reach Carolyn Nedley, Attorney at Law, for Parent on behalf of Student, in order to convene the PHC. Those calls were made between 10:00 a.m. and 10:30 a.m. The ALJ left voicemail messages on Ms. Nedley's telephone number during each attempt to reach her. Despite these attempts, Ms. Nedley did not appear at the PHC. On November 6, 2015, the Office of Administrative Hearings issued an Order to Show Cause for Ms. Nedley to establish why this matter should not be dismissed for failure to participate, prosecute or advance the case for hearing.

Ms. Nedley timely filed a written response, with declaration under penalty of perjury, on November 10, 2015. The response and declaration explain Ms. Nedley made an inadvertent error in entering the scheduled time of the PHC on her calendar and details the parties' efforts to reach settlement in this case. OAH did not receive a response from San Jose Unified School District on the OSC.

An ALJ has the ability, and the responsibility, to control due process proceedings under the Individuals with Disabilities Education Act similar to those in a civil or criminal action before other tribunals. OAH's policies regarding notification of settlements and requests for continuances, as well as the obligation of counsel to appear for all calendared matters is well known to Ms. Nedley, as she has practiced before OAH for some time. These procedures are in place to ensure that cases are timely calendared and continuances are properly granted, so OAH can ensure cases are processed in a timely manner. The procedures are designed to protect the rights of both Student and San Jose. When the procedures are not followed, the impact upon OAH and the parties' rights can be significant. This matter resulted in wasted time and resources not only for this tribunal but for San Jose as well. Once Ms. Nedley received the voicemail messages from OAH regarding her failure to appear at the PHC, she should have contacted OAH immediately to explain the reason she failed to appear. Even if the parties were close to reaching settlement in this matter, Ms. Nedley was still obligated to fully participate in all calendared matters.

Although Ms. Nedley accepts responsibility for not appearing at the time set for the PHC, such conduct will not be permitted in the future. Ms. Nedley is hereby on notice that if such conduct occurs again, OAH may entertain imposing sanctions against her. The OSC is vacated. All pending dates remain on calendar.

IT IS SO ORDERED.

DATE: November 12, 2015

/S/

DENA COGGINS
Administrative Law Judge
Office of Administrative Hearings