BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
UPLAND UNIFIED SCHOOL DISTRICT,	OAH Case No. 2018120181
v.	ORDER DISCLOSING STUDENT'S EX PARTE COMMUNICATION TO UPLAND UNIFIED SCHOOL DISTRICT AND NOTICE OF NO ACTION
PARENT ON BEHALF OF STUDENT.	

On February 7, 2019, the Office of Administrative Hearings received from Student's parent a document purporting to be a complaint against the Administrative Law Judge assigned to hear this matter, currently scheduled for hearing on February 21, 2019. It does not appear that Parent provided Upland Unified School District's attorney with a copy of this request, which is an attempt to have Administrative Law Judge Alexa Hohensee removed from hearing this matter based on rulings that she and other Administrative Law Judges have made in this matter.[1]

The February 7, 2019 letter filed by Parent on behalf of Student is deemed an ex parte communication during the pendency of the proceedings in the above captioned case.

Ex parte communications are not permitted while a due process proceeding is pending. "[W]hile special education due process hearing proceedings are pending there shall be no communication, direct or indirect, regarding any issue in the proceeding, to a hearing officer from an employee or representative of a party or from an interested person unless the communication is made on the record at the hearing." (Cal. Code. Regs., tit. 5, § 3084, subd. (a).) When an ex parte communication is received, the administrative law judge presiding over the matter must disclose the communication to all parties, make it part of the record, and allow the parties an opportunity to address the matter within 10 days of receipt of the notification of communication. (Cal. Code. Regs., tit. 5, § 3084, subds. (c)-(e).)

Here, the ex parte communication was made to OAH with the expectation that someone from OAH would remove Administrative Law Judge Hohensee from hearing this matter and to revisit prior orders issued in this matter. Further the reader of Student's request could include an Administrative Law Judge assigned to hear this matter, who would read the document, and intended to affect the conduct of this proceeding. As such, it must be

[1] Student has properly served Upland's attorney with other documents filed in this case.

disclosed to all parties, and made a part of the record. This Notice therefore discloses the communication to Upland. Further, OAH cannot set aside its prior orders unless Student makes a formal motion, which is served upon Upland's attorney so Upland may submit a response.

The February 7, 2019 letter shall be attached to this Notice and shall be made part of the record in this matter. The undersigned has taken no action based upon the allegations contained in February 7, 2019 letter, and OAH shall take no action in response to the letter as Parent did not serve a copy of the letter on Upland's attorney, other than to remind Parent that a copy of any document submitted to OAH must also be provided to Upland's counsel at the same time.

IT IS SO ORDERED.

DATE: February 8, 2019

DocuSigned by:
Peter Paul Castillo
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PETER PAUL CASTILLO
Presiding Administrative Law Judge
Office of Administrative Hearings