BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

WESTERN PLACER UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2020080842

ORDER TO SHOW CAUSE REGARDING REPRESENTATION OF STUDENT

AUGUST 31, 2020

On August 28, 2020, the Office of Administrative Hearings received a request for due process hearing, complaint, from that named Western Placer Unified School District. Attorneys Peter G. Albert and Patrick Donohue filed the complaint on behalf of Student.

APPLICABLE LAW

The parties to a due process proceeding have a right to be "accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities." (20 U.S.C. § 1415(h)(1); see also Ed. Code, § 56505, subd. (e)(1).) The right to be represented by an attorney and the right to be

accompanied and advised by an individual with special knowledge or training does not mean that attorneys and individuals with special knowledge perform the same function. Attorneys are legally authorized to act on behalf of their clients and to practice law.

On September 28, 2017, the attorney general issued an opinion letter which considered whether the Individuals with Disabilities Education Act, the implementing regulations, and/or the California Education Code authorized a party to special education due process proceedings to be represented by a person that was not an active member of the California State Bar. The attorney general's opinion concluded that these laws did not authorize parties to a special education due process hearing to be represented by a person that is not an active member of the California State Bar in due process hearings. (100 Ops. Cal. Atty. Gen. 19 (2017).)

ORDER TO SHOW CAUSE

Neither Attorney Albert nor Attorney Donohue appear to be authorized to practice law in the State of California as they appear only to be licensed to practice law in the State of New York. In light of the attorney general's letter, Attorneys Albert and Donohue were not authorized to file the complaint on behalf of Student.

Therefore, Student is ordered to show cause that their attorney is authorized to practice law in California and file the due process complaint on behalf of Student and that OAH should not dismiss Student's complaint. In the alternative, Parent may represent Student as a self-represented litigant by having Parent, and not Attorneys Albert or Donohue, sign the complaint. Student is ordered to file a written response with OAH by no later than 5:00 PM on September 9, 2020. A copy of the response shall be served upon the opposing party. Any response by Western Placer shall be filed by Noon on September 11, 2020.

The order to show cause hearing shall take place telephonically on September 14, 2020, at 2:00 PM Failure of Student's representative to appear telephonically at the order to show cause hearing on September 14, 2020, will result in the dismissal of the complaint.

ORDER

1. An Order to Show Cause Regarding Representation of Student is hereby issued. Student must file a response no later than 5:00 PM, September 9, 2020.
2. A telephonic order to show cause hearing shall be convened at 2:00 PM on September 14, 2020.

IT IS SO ORDERED.

DocuSigned by:
Peter Paul Castillo
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Peter Paul Castillo

Presiding Administrative Law Judge

Office of Administrative Hearings