BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. CAPISTRANO UNIFIED SCHOOL DISTRICT.	OAH Case No. 2017040476 ORDER DENYING STUDENT'S MOTION TO COMPEL RESPONSE TO REQUEST FOR DUE PROCESS HEARING

On April 10, 2017, Student filed a Due Process Hearing Request with the Office of Administrative Hearings. On April 20, 2017, District filed a Response to Student's Request for Due Process Hearing ("Response").

On August 28, 2017, Student filed an "Amended Request for Mediation and Due Process Hearing" ("Amended Complaint"). On September 1, 2017, the OAH granted Student's motion to amend and deemed the Amended Complaint filed. On September 11, 2017, District filed a Response to Student's Amended Request for Due Process Hearing ("Amended Response").

On September 18, 2017 Student filed a "Request for Order to Compel District to File a Procedurally Adequate Response." On September 19, 2017, District filed an opposition to Student's Request for an Order to Compel a Procedurally Adequate Response.

APPLICABLE LAW

The IDEA requires a school district to respond to a parent's due process complaint within 10 days. (20 U.S.C. § 1415(c)(2)(B)(i)(I).) When a school district fails to file a timely answer, the ALJ must order a response. Failure to respond to a complaint entirely is a violation of the IDEA, and absent the filing of a response or a prior written notice that serves the same function, a hearing cannot proceed. (20 U.S.C. § 1415(c)(2)(B)(i)(I); *M.C. v. Antelope Valley Union High School Dist.* (9th Cir. 2017) 858 F.3d 1189, 1199-1200.

DISCUSSION

Here, District's Amended Response adequately puts Student on notice of District's position on Student's issues, responds to the material allegations of the Amended Complaint, and sets forth District's proposed remedy, that is, an order finding the Amended Complaint to be without merit and Student entitled to no relief. District's response goes in sufficient

detail as to District's response to Student's allegations. Accordingly, Student's Request to Compel a Procedurally Adequate Response to the Amended Complaint is denied.

IT IS SO ORDERED.

DATE: September 20, 2017

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Vernon Bogy
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VERNON BOGY
Administrative Law Judge
Office of Administrative Hearings