

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL DISTRICT.
OAH CASE NUMBER 2020020556

ORDER TO SHOW CAUSE WHY STUDENT'S CASE SHOULD
NOT BE DISMISSED AND ORDER CONTINUING
PREHEARING CONFERENCE AND HEARING

MAY 8, 2020

On February 13, 2020, Parent on behalf of Student filed a due process hearing request, referred to as a complaint, against Los Angeles Unified School District. On February 14, 2020, the Office of Administrative Hearings set a prehearing conference for March 27, 2020 and a due process hearing for April 7, 8, and 9, 2020. The Office of Administrative Hearings is called OAH; and a prehearing conference is called a PHC.

On March 17, 2020, OAH granted the parties' joint request for continuance, setting the PHC for May 8, 2020 and the hearing for May 19, 20, and 21, 2020.

On May 8, 2020, Administrative Law Judge Cole Dalton, convened the prehearing conference by videoconference. The Administrative Law Judge is called an ALJ. Donald Erwin, Attorney at Law, appeared on behalf of Los Angeles Unified School District. No appearance was made on behalf of Student. Student's counsel, Lisa Shafii, had not filed a prehearing conference statement. Ms. Shafii was sent the same invitation to the PHC as Mr. Erwin. The ALJ and Mr. Erwin waited 15-minutes for Ms. Shafii to appear.

The Administrative Procedures Act governs hearings held before the Office of Administrative Hearings. Government Code section 11455.10 states that a person is subject to the contempt sanctions for disobedience of or resistance to a lawful order. California Education Code section 56500.1, et. seq., sets forth the procedural safeguards for Due Process Hearings. Education Code section 56502 establishes the procedural requirements and timelines for holding Due Process Hearings and issuing decisions, absent continuance requests. Education Code section 56505 establishes the rights of the parties to be informed by the other party to the hearing what those parties believe are the issues to be decided at the hearing and their proposed resolution of those issues, at least 10 days before the hearing. It also establishes the rights of the parties to receive a copy of all documents and a list of all witnesses intended to be presented at hearing, at least five business days before the hearing. These are detailed in OAH's Pre-Hearing Conference Orders.

When a party files a complaint pursuant to the IDEA, that party has a duty to prosecute the case, which includes disclosing their witnesses and documentary evidence and otherwise prepare for hearing by attending the mandatory PHC. Student's election to forego both filing a PHC statement and attend the PHC is disruptive of the OAH hearing process.

Therefore, the ALJ issues the following Order:

1. Order to Show Cause: A videoconference Order to Show Cause Hearing Re: Dismissal is set for May 15, 2020 at 10:00 AM, at which both parties must appear, and at which time Student's counsel must appear and show cause, if any, why Student's complaint should not be dismissed for failure to prosecute this matter. OAH will send an email invitation to Student's counsel's email address on file with the State Bar, as counsel failed to provide OAH with a work email address. All parties are required to join the videoconference Order to Show Cause Hearing. If Student's counsel fails to appear, Student's complaint will be dismissed without prejudice for failure to prosecute this matter.
2. The PHC is continued to May 15, 2020 at 10:00 AM and will be heard immediately following the Order to Show Cause Hearing, unless the matter has been dismissed.
3. The hearing is continued to May 26, 27, and 28, 2020.

IT IS SO ORDERED.

Cole Dalton

Administrative Law Judge

Office of Administrative Hearings