

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

OAH Case No. 2015050410

v.

SAN MARCOS UNIFIED SCHOOL
DISTRICT,

SAN MARCOS UNIFIED SCHOOL
DISTRICT,

OAH Case No. 2015050399

v.

ORDER GRANTING REQUEST TO
REOPEN CASE

PARENT ON BEHALF OF STUDENT.

On October 22, 2015, Student's prior attorney, Meagan Nunez, filed a request with the Office of Administrative Hearings to withdraw as legal counsel from the above consolidated matter and to dismiss Student's Case, OAH Case No. 2015050410, without prejudice.¹ On October 26, 2015, Ms. Nunez filed a separate request to dismiss Student's case with prejudice. OAH has not yet issued an order to dismiss Student's complaint against San Marcos Unified School District.

On October 28, 2015, Student, through new legal counsel, Patricia Lewis, moved to reopen the above-titled case on the grounds that Ms. Nunez never obtained Student's Parent's approval to withdraw Student's case.

On October 28, 2015, District filed a request as to the status of the prehearing conference and hearing dates, which were scheduled for November 2, 2015, and November 9 through 13, 2015, respectively for the consolidated matters, and if those dates still applied to District's pending complaint against Student.

¹ Ms. Nunez's withdrawal of counsel did not include evidence that Ms. Nunez served a copy of the withdrawal on Student's Parent. (An attorney who seeks to withdraw as legal counsel must provide notice to the client of the withdrawal of counsel request. (*In re Malcolm D.* (1996) 42 Cal.App.4th 904, 914; Code Civ. Proc., § 284, subd (2).)

The request to reopen the case is timely and is granted. Student established that Ms. Nunez did not have the authority to dismiss Student's case as Student's Parent merely wanted to change legal counsel, not dismiss Student's case. Therefore, Student's case is reopened and the consolidated matter of Student's Case and District's Case will proceed as previously scheduled.

ORDER

1. Student's request to reopen the case is granted and reopened under the same case number, OAH Case No. 2015050410.
2. All dates previously set for the prehearing conference, November 2, 2015, at 3:00 p.m., and hearing, November 9 through 13, 2015, shall remain on calendar.

DATE: October 29, 2015

/s/

PETER PAUL CASTILLO
Presiding Administrative Law Judge
Office of Administrative Hearings