

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

TRACY UNIFIED SCHOOL DISTRICT
OAH CASE NUMBER 2021070887

ORDER DISMISSING CASE FOR INACTIVITY

SEPTEMBER 10, 2021

On April 16, 2021, Parent on behalf of Student filed a request for due process hearing, called a complaint, naming the Tracy Unified School District, in case number 2021040714. A prehearing conference, called a PHC, was set for May 28, 2021, at 3:00 p.m. At the time of the PHC, Student had not filed the required Participant List or a PHC statement. The PHC was held at the scheduled time, but Student did not appear for it. On June 2, 2021, OAH issued an Order to Show Cause directing Student to show cause by June 9, 2021, why the matter should not be dismissed for inactivity. OAH did not receive a response and OAH dismissed the matter for inactivity on June 11, 2021. Student requested to vacate the dismissal and restore the matter, but OAH denied Student's motion on July 21, 2021.

On July 27, 2021, Parent on behalf of Student filed a complaint naming Tracy Unified School District in case number 2021070887. OAH set the prehearing conference for September 10, 2021, at 1:00 p.m. At the time of the PHC, Student had not filed the required Participant List or a PHC statement. The PHC was held at the scheduled time, but Student did not appear for it. Tracy's counsel, Jeffery Maisen, represented that the district had received a request from Student to continue the matter and it did not oppose the motion. However, at the time of the PHC, OAH had not received a continuance in this matter. Maisen further stated that the proof of service showed it was mailed on September 1, 2021, to OAH's Los Angeles office. However, OAH accepts mail service at its Sacramento office only, as stated in the August 3, 2021, Scheduling Order Setting Telephonic Prehearing Conference and Due Process Hearing, which was served by mail on Parents the same day.

If the parent and local education agency have not resolved the due process complaint within 30 days of the receipt of the complaint, OAH is required to issue a decision within the next 45 days, unless a continuance is granted for good cause. (20 U.S.C. § 1415(f)(1)(B)(ii); 34 C.F.R. § 300.51; Ed. Code, § 56502, subd. (f).)

Since no continuance motion was received by OAH, a continuance determination could not be made. Thus, Student was required to appear for the PHC and file a PHC statement and Participation List. Parents failed to do so. Parents are responsible for knowing the procedures required to appear before OAH, meeting the deadlines ordered, and making all required appearances. Parents previous case was dismissed for inactivity and Parents continue to violate OAH procedures. Thus, Parents have not pursued this action with diligence.

Accordingly, all dates now calendared in this matter are vacated and the complaint is dismissed.

IT IS SO ORDERED.

A handwritten signature in black ink that reads "Cynthia Fritz". The script is cursive and fluid, with the first name "Cynthia" being more prominent than the last name "Fritz".

Cynthia Fritz

Administrative Law Judge

Office of Administrative Hearings