

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

KONOCTI UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021090249

ORDER DISMISSING CASE

FOLLOWING ORDER TO SHOW CAUSE

NOVEMBER 2, 2021

On September 7, 2021, Student through his attorney, filed a request for due process hearing, referred to as a complaint with the Office of Administrative Hearings, called OAH. The complaint named Konocti Unified School District as respondent. Pursuant to a scheduling order issued on September 10, 2021, the case was set for videoconference prehearing conference on October 25, 2021 at 3:00 PM.

On October 19, 2021, a substitution of attorney was filed notifying OAH that from that day forward Parent would be self-represented. On October 20, 2021, Konocti filed its prehearing conference statement with OAH accompanied by a proof of service stating the statement was served to Parent via email and certified mail. Prior to the start

of the prehearing conference, Parent, who is representing Student, was sent a videoconference link for the prehearing conference via email. The email also reminded Parent of the date and time of the prehearing conference.

At the appointed time, 3:00 PM on October 25, 2021, the prehearing videoconference was convened. Parent did not appear. A recess was taken until 3:20 PM to give Parent the opportunity to join the videoconference. A staff member from OAH called Parent to remind her that the prehearing conference was scheduled for 3 PM and would reconvene at 3:20 PM. The prehearing conference was reconvened via videoconference at 3:20 PM. Parent did not join. Parent did not request to continue the prehearing conference. Parent did not contact OAH thereafter via telephone or in writing.

Counsel for Konocti was available for the prehearing conference. As the case was filed by Student, the prehearing conference could not proceed without Student's appearance.

An order to show cause was issued, requiring that Student file a response addressing the issues of why he failed to appear for the prehearing conference and why the case should not be dismissed for failure to prosecute Student's claims. Student was given until 3:00 PM on Monday November 1, 2021, to file a response. Student was also directed to file a prehearing conference statement by November 2, 2021 so that the prehearing conference could proceed on Friday, November 5, 2021 at 10:00 a.m., if the case was not dismissed. No response to the Order to Show Cause was filed by Parent. Nor was a prehearing conference statement filed.

If the Student and local education agency have not resolved a 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).)

Here, Student failed to file a prehearing conference statement or attend the prehearing conference. At no time has Student requested a continuance of the scheduled obligations. Student failed to explain why he did not attend the prehearing conference, when an order to show cause issued requiring that Student explain why OAH orders were not being followed. Nor did Student provide any basis for why his case should not be dismissed for lack of prosecution.

ORDER

Student has not diligently pursued this matter and has failed to explain his failure to appear at the prehearing conference scheduled in this case. All previously scheduled dates in this matter are hereby vacated and Student's case is hereby dismissed.

IT IS SO ORDERED.

Penelope S. Pahl

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Administrative Law Judge

Office of Administrative Hearings