

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

SAN RAFAEL CITY SCHOOLS.
OAH CASE NUMBER 2023110786

ORDER DISMISS MATTER FOR FAILURE TO COMPLY WITH
OAH ORDERS

FEBRUARY 2, 2024

On November 21, 2023, Student filed a request for due process hearing, referred to as a complaint, with the Office of Administrative Hearings, referred to as OAH, naming San Rafael City Schools.

On December 12, 2023, OAH issued an order granting the parties' joint request for a videoconference mediation and continuance. The mediation was set for January 10, 2024, which the parties attended. The prehearing conference, referred to as a PHC, was set for January 19, 2024, at 10:00 AM, and the hearing for January 30, 2024, through February 1, 2024.

On January 16, 2024, San Rafael filed a complaint, naming Student. The two complaints were not consolidated and the PHC in this matter, Student's case, went forward on January 19, 2024.

On January 19, 2024, at 10:00 AM, the undersigned ALJ held the PHC. Deborah Ettinger appeared on behalf of San Rafael. No appearance was made on behalf of Student. The PHC was trailed to 2:30 PM, pending the parties filing a copy of the settlement agreement's signature pages and Student filing a request for dismissal, with OAH.

San Rafael filed evidence of a fully executed settlement agreement and a dismissal of its case before 2:30 PM. Student did not file a dismissal of his case.

Neither party appeared at the trailed PHC at 2:30 PM. The undersigned ALJ issued an Order to Show Cause based upon Student's failure to appear and failure to file a dismissal, as previously ordered. The Order to Show Cause was set for January 26, 2024, at 1:00 PM.

On January 26, 2024, Student filed a request for dismissal but failed to provide a proof of service on San Rafael. OAH staff notified Student that the dismissal must be accompanied by a proof of service on San Rafael to constitute an effective dismissal.

On January 26, 2024, at 1:00 PM, the Order to Show Cause came on for hearing as Student had not filed an effective request for dismissal. Neither party appeared.

The Administrative Procedures Act governs hearings held before OAH. 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.

When a party files a complaint pursuant to the Individuals with Disabilities Education Act, or IDEA, that party has a duty to prosecute the case, meaning comply with OAH orders and statutory law, which includes attending PHCs and, where a matter has settled, filing a request for dismissal. Failing to do so is disruptive of the OAH hearing process and interferes its ability to schedule PHCs and hearings.

The Order to Show Cause, along with telephone calls from OAH staff, notified Student that they were required to file a request for dismissal with proof of service on San Rafael. Pursuant to the Order to Show Cause, Student's case is considered abandoned. Accordingly,

Student's case is dismissed.

IT IS SO ORDERED.

Cole Dalton

Cole Dalton

Administrative Law Judge

Office of Administrative Hearings