BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS OF:

PARENT ON BEHALF OF STUDENT,

v.

TEMPLE CITY UNIFIED SCHOOL DISTRICT,

OAH CASE NUMBER 2018060785

and

TEMPLE CITY UNIFIED SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT,

OAH CASE NUMBER 2018070829

ORDER DENYING MOTION TO VACATE AS MOOT AND DENYING REQUEST TO MARK DECISION

MARCH 11, 2020

On February 27, 2020, Mr. David German, attorney for Student, filed a Motion to Vacate OAH Decision in Consolidated Case Nos. 2018060785 and 2018070829 or to Provide Appealable Final Order Denying Motion to Vacate. No response has been received from Temple City.

OAH issued a final decision in these consolidated cases on April 17, 2019. The matter was appealed to the United States District Court, Central District of California. On October 3, 2019, the parties reached a settlement in the matter which provided for the Court to enter the following judgement:

> "IT IS ORDERED AND ADJUDGED that the April 17. 2019 decision rendered by the California Office of Administrative Hearings ("OAH") in the consolidated matter, Case Nos. 2018060785 and 2018070289 is hereby Vacated.
>
> IT IS FURTHER ORDERD AND ADJUDGED that the above-captioned matter be dismissed with prejudice, and that except as otherwise agreed to by the Parties, each party shall bear its own attorneys' fees and costs in connection with the action."

The Court issued the order on October 3, 2019. At the moment the Federal Court issued the order, the OAH decision was vacated. On October 14, 2019, Mr. German requested that OAH take notice of the judgement and indicate on the OAH website that the OAH decision had been vacated. No action was taken by OAH, as OAH no longer notes appellate actions on OAH decisions in the online database. Mr. German now moves that OAH vacate the decision or in the alternative deny this motion in the form of an appealable written order. Mr. German's motion to vacate the order is denied as moot and his request to mark the decision is denied. Mr. German makes four arguments which will be addressed in the order they appear in Mr. German's motion. It is notable that Mr. German's motion contains no statutes, regulations, or case law supporting his positions.

First, he argues that Federal District Court orders that vacate OAH decisions are binding on OAH. He states that there is no reasonable basis why a judgement vacating a decision requires no action on the part of OAH. Here, the parties appealed the decision to a court of competent jurisdiction. The OAH decision was vacated, as a matter of law, on October 3, 2019 and the Court's order vacating the decision is binding on the parties. No action is required by OAH, as OAH does not have the legal authority to vacate our own decisions. Even if OAH had jurisdiction to vacate our own decisions, the issue would be moot, as the Federal Court has already vacated the decision.

Second, Mr. German argues that judicial economy requires that a District Court Order Vacating an OAH decision be honored. Mr. German argues that there is "no reasonable basis for OAH to usurp the district court's power to review and dispose of the OAH decision as the court sees fit……an OAH policy which refuses to implement such orders will force parties to litigate cases to completion in district court which would otherwise have been settled. For example, Student would have never settled the instant case were it not for the availability to a mechanism to vacate the underlying decision which with he disagreed." Again, the Federal Court vacated the decision with its Order dated October 3, 2019. The decision is vacated and there is no action for OAH to take. There is no usurping here of the power of the Federal Court, rather the opposite. OAH defers, as it is required to, to the power of the Federal Court to vacate the OAH decision wholly and completely. Mr. German seems to argue here that OAH was somehow treating this request differently because it was a settlement that brought about the order, not a full appeal. OAH would have treated Mr. German's request the same regardless of the genesis of the Federal Court order.

Third, Mr. German states that it is improper for OAH to maintain a public database of decisions if it refuses to indicate when decisions have been affirmed, reversed, remanded or vacated in whole or part. Mr. German takes the position that by publishing OAH decisions and maintaining them on a publicly available database, OAH has assumed an obligation to indicate when a Federal Court has affirmed, reversed, remanded or vacated a decision. He states that if there is no means of determining which decision remain good law and which are not, the usefulness of the database is diminished. He also argues that the OAH hearing officers routinely cite to OAH decisions as precedent within our decisions and that a refusal to note when a District Court judgement has changed the propose precedential value of a decisions creates a situation where OAH can be misled about the status of a previous decision.

OAH is required by inter-agency agreement with the California Department of Education to post all decisions on its website and by both inter-agency agreement and statute to make copies of decisions available to the public. The website database is a collection of all of the decisions issued by OAH. OAH is not required by statute or inter-agency agreement to provide a service, like paid subscription services do, to assist with determining whether cases have been overturned or vacated by appellate courts. Of course, legal research remains the means to determine which cases remain "good law." Parties are required to do their own research when citing cases and should look to both state and federal appellate cases to see whether an OAH case has been modified or vacated by an appellate court. Finally, OAH cases are not precedential. (5 CCR. Sec. 3085). Parties and ALJ's who want to rely on an earlier issued OAH decisions as persuasive should do the requisite legal research to determine whether an appeals court has weighed in on a particular case.

Finally, Mr. German claims that OAH's previous practice requires that it note when a decision has been vacated by a district court. It is true that previous to mid-2019, OAH did note on some decisions that they were remanded, vacated or otherwise ruled upon by an appellate court. However, a review of the decisions in the OAH database revealed that not all decisions that were remanded, overturned, vacated or otherwise ruled upon by appellate courts were noted as such. OAH had been relying on parties to notify it that an appellate decision had been made. Not all parties were notifying OAH when this happened and there is no legal requirement that they do so. OAH determined that having only some of the decisions marked where there were orders by an appellate court was misleading, as parties often assumed that a case had not been overturned remanded, vacated or otherwise set aside by an appellate court because it was not marked. Since OAH was not required to make the remarks on the decisions, OAH removed the marks from the decisions that were marked and made the decision not to continue marking the decisions. This decision is consistent with OAH's legal and interagency obligations.

The motion for OAH to vacate the decision in cases 2018060785 and 2018070829 is denied as moot. The motion to make remarks on the decision in the OAH database is denied.

IT IS SO ORDERED.

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Margaret Gibson
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Margaret Gibson

Division Chief Administrative Law Judge, Special Education

Office of Administrative Hearings