BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

SANTA CRUZ CITY SCHOOLS.

OAH CASE NUMBER 2025060821

ORDER GRANTING STUDENT'S MOTION REQUIRING SANTA CRUZ CITY SCHOOLS TO FILE A RESPONSE TO COMPLAINT

JULY 22, 2025

On June 19, 2025, Parents on behalf of Student filed a due process hearing request, called a complaint, with the Office of Administrative Hearings, called OAH, naming Santa Cruz City Schools, called Santa Cruz. On July 15, 2025, Student filed a motion requiring Santa Cruz to file a response to the complaint. OAH did not receive a response to the motion from Santa Cruz.

State and federal law require a local education agency to respond to a due process complaint. (Ed. Code, § 56502, subd. (d)(2)(A); 20 USC § 1415(c)(2)(B)(i)(I); 34 C.F.R. § 300.508.); *M.C. by and through his guardian ad litem M.N. v. Antelope Valley*

Union High School District (9th Cir. 2017) 858 F.3d 1189, 1199-1200 (*M.C.*).) Both the Education Code and Title 20 United States Code section 1415(c)(2)(B)(i)(I) require a local educational agency to "send to the parent a response" to the due process complaint, if the school district has not sent prior written notice to the parent regarding the subject matter contained in the parent's due process complaint. The response to the complaint must be sent to the parent within 10 days of receiving the complaint. Title 20 United States Code section 1415(c)(2)(B)(i)(I)(aa) through (dd) itemizes what should be contained in the response.

The Ninth Circuit Court of Appeals stated in *M.C.*:

> When a school district fails to file a timely answer, the [Administrative Law Judge] must not go forward with the hearing. Rather, it must order a response and shift the cost of the delay to the school district, regardless of who is ultimately the prevailing party.

(*Id.* at pp. 1199-2000.)

Student argues that Santa Cruz should be required to file a response to the complaint. Student's motion states Santa Cruz served a prior written notice on Parents on June 13, 2025. It is unclear from Student's motion whether the prior written notice addressed the issues raised in Student's complaint. This confusion is compounded by Santa Cruz's failure to file a response to Student's motion.

The Ninth Circuit Court of Appeals explained that "[l]ike an answer to a complaint, a response [to a due process complaint] serves an important dual purpose: [i]t gives notice of the issues in dispute and binds the answering party to a position." (*Id.* at pp. 1199-2000, n. 6.) The court continued:

> Failure to file a response puts the opposing party at a serious disadvantage in preparing for the hearing, as it must guess what defenses the opposing party will raise. The problem is particularly severe in [Individuals with Disabilities Education Act] cases because there is no discovery."

(*Id.*)

Student established Santa Cruz did not timely file a response to the complaint. Santa Cruz is ordered to file and serve a response which complies with state and federal law no later than 5:00 p.m. on July 31, 2025. In the event Santa Cruz fails to file a response resulting a delay of the hearing, Santa Cruz will be assessed any cost to Student caused by such delay.

IT IS SO ORDERED.

Jennifer Kelly

Jennifer Kelly
Administrative Law Judge
Office of Administrative Hearings