BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2025010260

ORDER DISMISSING CASE FOR FAILURE TO PROSECUTE AND FAILURE TO PARTICIPATE IN RESOLUTION SESSION

FEBRUARY 25, 2025

On January 8, 2025, Parents, on behalf of Student, filed a Request for Due Process Hearing, also called a complaint, with the Office of Administrative Hearings, called OAH, naming Los Angeles Unified School District as respondent. A prehearing conference was held in the case on February 14, 2025, confirming that the previously scheduled February 25, 2025, hearing would proceed via videoconference, and the parties would be required to exchange evidence five days prior to hearing by uploading their evidence to OAH's evidence program Case Center.

An order following prehearing conference was issued on February 20, 2025, confirming the hearing would being on February 25, 2025, at 9:30 a.m. The order

summarized the information discussed during the prehearing conference. That order also confirmed the parties' responsibility to exchange evidence five business days prior to the hearing by uploading evidence to Case Center.

At the prehearing conference, Los Angeles' concern that Parents had not participated in a resolution session to date was raised. Los Angeles had not filed a motion regarding the failure to participate in a resolution session prior to the prehearing conference. Parents were informed by the undersigned that participation in, or joint waiver of, a resolution session was legally required. (20 U.S.C, 1415(f)(1)(B); 34 C.F.R. 300.510; Ed. Code § 56501.5.) They were also informed that participation in mediation was also an option and were offered the opportunity to participate in mediation and, if needed, a continuance. Parents refused the continuance and stated they did not want to participate in mediation unless Los Angeles agreed to pre-mediation conditions. Los Angeles did not agree to pre-mediation conditions at the time of the prehearing conference.

On February 19, 2025, Parents filed a copy of a letter authorizing them to act on behalf of Student who is over 18 years old.

On February 20, 2025, late in the afternoon, Los Angeles filed a motion to dismiss the case based on Student's failure to participate in a resolution session. Los Angeles served the motion on Parents that same day. On February 19, 2025, Parents had filed a copy of an email indicating mediation dates were being discussed between the parties. However, there was no indication a date for mediation had been agreed.

On February 21, 2025, the undersigned issued a Notice of No Action regarding the filing of the email copy and a notice that Student would have until February 24,

2025, to respond to Los Angeles' motion to dismiss. The notice included a reminder that participation in a resolution session was mandatory prior to hearing going forward.

Parents had uploaded no evidence to Case Center by the close of business on February 21, 2025. Parents did not upload any evidence or the required witness schedule prior to the hearing. Parents had been informed at the prehearing conference that uploading evidence to Case Center would constitute their required exchange of evidence.

On February 24, 2025, Parents filed a "Memorandum of Points and Authorities in support of Ex Parte Application for Temporary Restraining Order and Preliminary Injunction." The caption indicated the unsigned document was filed in Los Angeles Superior Court. Parents also filed a document entitled "Petition for Writ of Mandate" that indicated it was a verified Petition for Writ of Mandate. This document also had a caption indicating it had been filed in Los Angeles Superior Court. It was also unsigned. Parents also filed an email indicating two documents had been sent to counsel for Los Angeles, entitled "Ex Parte Application for TRO and Preliminary Injunctions" and "Memorandum of Points and Authorities in support of ex parte application" with a request they acknowledge receipt. Neither of these documents had filing endorsements from the Los Angeles Superior Court.

On February 24, 2025, invitations to the videoconference hearing marked Hearing Day 1, with the name and case number of the case, were sent to counsel for Los Angeles and to Parents. This was the procedure the parties were told to expect at the prehearing conference. The same email addresses were used for the Parents that had been used for the prehearing conference, at which all parties, including both Parents, had appeared. OAH received no messages indicating the invitations were unable to be delivered.

On February 25, 2025, OAH received Student's "Motion to Stay Proceedings and Transfer the Case to Superior Court." The document was filed at 5:57 am. However, OAH does not file documents outside of the normal 8:00 a.m. to 5:00 p.m. business hours. The motion was docketed at 8:44 a.m. The parties were scheduled to appear at at 9:30 a.m. for the first day of hearing.

Both counsel for Los Angeles and their client representative appeared for the scheduled hearing at 9:30 a.m. Parents did not appear. The undersigned waited for 15 minutes to give Parents time to appear. At 9:45 the Los Angeles representatives were informed OAH would call Parents. Parents were called at 9:50 a.m. They did not answer the telephone, so a voice mail was left informing Parents their motion would be heard at the hearing. They were told they had until 10:05 to appear.

The undersigned convened the hearing on the record at 10:23 a.m. Parents did not appear. Parents had not exchanged evidence prior to the hearing as required. (Ed. Code § 56505(e)(7).)

FAILURE TO PROSECUTE

Despite multiple notifications, including, during the prehearing conference; in the prehearing conference order; in the Zoom invitation to the videoconference for the hearing, and with a telephone call on the morning of hearing to Parents, neither Student, nor her Parents, appeared for the hearing. Parents offered no explanation for their failure to appear and filed nothing stating they would not appear at the scheduled hearing. Parents did not notify Los Angeles they would not be appearing. Student failed to exchange evidence in advance of the hearing as required. (34 C.F.R. 300.512(b); Ed. Code § 56505(e)(7).) Student has the burden of proof in a Student-filed hearing. (*Schaffer ex rel. Schaffer v. Weast*, (2005) 546 U.S. 49, 62 [126 S.Ct. 528, 163 L.Ed.2d

387].) A party has the right to seek exclusion of any evidence at the hearing that has not been disclosed to that party at least five business days before the hearing. (20 U.S.C. 1415(f)(2); 34 C.F.R 300.512(a)(3) Ed. Code § 56501.1, subd. (f).) Student's actions support a finding that she failed to prosecute this case and dismissal is proper.

FAILURE TO PARTICIPATE IN RESOLUTION SESSION

Even had student appeared and overcome her failure to prosecute this matter, the case would have been dismissed unless Student, or her Parents, agreed to participate in the required resolution session. Los Angeles has the right to seek dismissal of the case if Parents refuse to participate in a resolution session (20 U.S.C, 1415(f)(1)(B); 34 C.F.R. 300.510; Ed. Code § 56501.5,subd. (e)(1).)

The undersigned was prepared to explore whether Student was willing to participate in the resolution session in lieu of the morning session of hearing. However, due to the failure to appear, that option was not available. Student, through her Parents, was notified multiple times that participation in a resolution session was required prior to a hearing being able to proceed. (34 C.F.R 300.510(b)(3); Ed. Code § 56501.5, subd. (a).) Student, through her Parents, was offered options in addition to a resolution session to meet this obligation, including mediation, and a continuance to hold either meeting; but accepted none of the offered choices. Neither Student, nor her Parents, offered confirmation that a resolution session or mediation session had been agreed to prior to the hearing.

In their February 20, 2025, motion to dismiss, Los Angeles adequately documented multiple attempts to schedule a resolution session with Parents that were not successful. Neither Student, nor her Parents offered any explanation for their refusal to engage in the required resolution session. Nor did Student, or her Parents, respond

to Los Angeles' motion to dismiss the case due to the failure to participate in the resolution session. Therefore, in addition to the failure to prosecute the case, Student's case is dismissed for failure to participate in a resolution session.

ORDER

1. Student's case is dismissed for failure to prosecute to case; and for failure to participate in a resolution session.
2. All hearing dates are vacated.

Penelope Pahl

Penelope S. Pahl
Administrative Law Judge
Office of Administrative Hearings