BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

LAGUNA BEACH UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2025040200

ORDER DENYING LAGUNA BEACH UNIFIED SCHOOL DISTRICT'S MOTION TO DISMISS WITHOUT PREJUDICE; ORDER DIRECTING SERVICE OF AMENDED COMPLAINT BY PERSONAL SERVICE OR MAIL

MAY 20, 2025

On April 3, 2025, Student filed a request for due process hearing, referred to as a complaint, with the Office of Administrative Hearings, naming Laguna Beach Unified School District, called Laguna Beach. The Office of Administrative Hearings is referred to as OAH.

On April 30, 2025, Laguna Beach filed a motion requesting a copy of Student's amended complaint. Student opposed the motion on May 1, 2025.

On May 8, 2025, OAH issued an order directing Parents to serve a complete copy of the 178-page amended complaint titled "Additional Legal Information and Documentation of Denial of FAPE, Procedural Violations, and IEE Violations" on Laguna Beach no later than Monday, May 12, 2025. The order advised Parents that failure to comply with the order could result in dismissal of Student's complaint.

On May 13, 2025, Laguna Beach filed a second motion to dismiss on the basis it has not received Student's amended complaint as required by OAH's order dated May 8, 2025. Laguna Beach's motion was supported by declarations under penalty of perjury by attorney Jennifer Fant and Laguna Beach's Director of Special Education Irene White. Fant and White attested to the fact they have not received a complete copy of Student's amended complaint. Laguna Beach argues it cannot provide a response or present a defense to Student's complaint because it has not received the entire amended complaint.

On May 14, 2025, Parents filed a response to Laguna Beach's motion to dismiss. Parents argued they served Laguna Beach's attorney with the amended complaint via electronic mail.

On May 16, 2025, Laguna Beach filed a reply to Parents' opposition. Laguna Beach's reply was supported by a declaration under penalty of perjury by attorney Jennifer Fant. Fant verified she has received a portion of Student's complaint but has not received the complete copy of the amended complaint consisting of 178-pages.

On May 19, 2025, Parents filed a sur-reply to Laguna Beach's motion to dismiss, a response to Laguna Beach's reply to Student's opposition, and Student's declaration regarding communications with OAH. Parents continue to argue they served Laguna with the amended complaint through electronic mail.

The party initiating a due process hearing complaint is required to provide the other party with a copy of the complaint at the same time it is filed with OAH. (Ed. Code, § 56502, subd. (c).) The due process hearing request must include:

- the name of the child, the address of the residence of the child, and the name of the school the child is attending;
- a description of the problem of the child relating to the proposed initiation or change, including facts relating to the problem; and
- a proposed resolution to the problem to the extent known and available to the party at the time.

(*Ibid.*) A due process hearing may not occur until the party, or the attorney representing the party files a request that meets these requirements. (*Id.*, at subd. (c)(2).)

Laguna Beach has established it has not received a complete copy of Student's amended complaint. Although Parents argue they have served the amended complaint electronically, Laguna Beach has demonstrated it has not been received. Parents are hereby ordered to serve the amended complaint no later than May 27, 2025, by 5:00 p.m. either by:

1. personal service upon Laguna Beach's attorney by service at the attorney's office, by leaving the complaint in an envelope or package clearly labeled to identify the attorney being served, with a receptionist or with a person having charge thereof; or
2. if there is no person in the office with whom the papers may be left, service may be made by leaving them between the hours of 9 a.m. and 5 p.m. in a conspicuous place in the office, or if the attorney's office is not open, then service may be made by putting the papers, enclosed in a

sealed envelope, into the post office or a mailbox directed to the attorney at his or her office.

(Code Civ. Proc., § 1011, subd. (a).)

The Administrative Law Judge, called ALJ, will address the issue of service on Laguna Beach at the prehearing conference, called PHC, scheduled for June 6, 2025, at 1:00 PM. In the event the complaint has not been served as required herein, the ALJ may dismiss the case or determine whether the case shall proceed as scheduled. Further, Laguna Beach may renew its request at the PHC to reset procedural timelines.

ORDER

1. Laguna Beach's motion to dismiss is denied without prejudice.
2. Parents shall serve Laguna Beach's attorney with the complaint by personal service at her office, or by United States mail as discussed above.
3. The ALJ will address the issue of service of the complaint at the June 6, 2025, 1:00 PM PHC. In the event the complaint has not been served, OAH may dismiss the complaint or determine whether the case shall proceed as currently scheduled.
4. Laguna Beach may renew its request to reset procedural timelines at the June 6, 2025, 1:00 PM PHC.

IT IS SO ORDERED.

Jennifer Kelly

Jennifer Kelly

Administrative Law Judge, Office of Administrative Hearings