BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2019071112

NOTICE OF NO ACTION AND NOTICE OF RECEIPT OF EX PARTE COMMUNICATIONS

On July 22, 2019, Student filed a request for due process hearing with the Office of Administrative Hearings, called OAH, naming Los Angeles Unified School District. On December 30, 2019, a final decision was issued. On January 24, 2020, Parent on behalf of Student filed a document with OAH, addressed to Administrative Law Judge Chris Butchko, who presided over the hearing in this matter, regarding Los Angeles Unified School District's compliance with the Decision.

Parent's filing is an ex parte communication with OAH in this matter. The filing does not contain a proof of service upon Los Angeles Unified School District.

Under the Individuals with Disabilities Education Act, decisions issued after an administrative due process hearing are final decisions. A party disagreeing with the

administrative decision may appeal it to a court within 90 days from when the decision was issued. (Ed. Code, § 56505 subd. (k).)

Ex parte communications, communications from one side to the tribunal without service on the opposing party, are not permitted while a due process proceeding is pending. "[W]hile special education due process hearing proceedings are pending there shall be no communication, direct or indirect, regarding any issue in the proceeding, to a hearing officer from an employee or representative of a party or from an interested person unless the communication is made on the record at the hearing." (Cal. Code. Regs., tit. 5, § 3084, subd. (a).)

The rule against ex parte communications "is, in essence, a rule of fairness meant to insure that all interested sides will be heard on an issue." (*Heavey v. State Bar of California* (1976) 17 Cal.3d 553, 559.) "[T]he right of a hearing before an administrative tribunal would be meaningless if the tribunal were permitted to base its termination upon information received without the knowledge of the parties." (*English v. City of Long Beach* (1950) 35 Cal.2d 155, 159.)

When an ex parte communication is received, the administrative law judge presiding over the matter must disclose the communication to all parties, make it part of the record, and allow the parties an opportunity to address the matter within 10 days of receipt of the notification of communication. (Cal. Code. Regs., tit. 5, § 3084, subds. (c)-(e).)

Once a decision is issued, OAH does not have jurisdiction over the case. Accordingly, no action is taken on Student's request.

Further, and once again, Parent sought to communicate to an OAH administrative law judge in a special education matter without serving the other side. The document

enumerated herein is ex parte communications intended to affect the conduct of the hearing and the outcome in this matter, and is unlawful communications unless timely served on the opposing party. This Notice discloses the communications to Los Angeles Unified School District. The ex parte communications shall be served on Los Angeles Unified School District along with this Notice and be made part of the record. Los Angeles Unified School District may respond to Parent's ex parte communication, if it so wishes, to correct any misstatements in Parent's communication.

All parties are advised that further communications to OAH shall be accompanied by a proof of service. The proof of service must establish that a copy of the submitted document was provided to the other side, and the means by which it was provided and when. Parent is also advised not to communicate with OAH about the merits of the case by email or by telephone. The undersigned has taken and will take no action based upon the ex parte communications.

DocuSigned by:
Peter Paul Castillo
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DATED: January 27, 2020

Peter Paul Castillo
Presiding Administrative Law Judge
Office of Administrative Hearings