BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

SEQUOIA CAREER ACADEMY.

OAH CASE NUMBER 2026020346

ORDER DISMISSING CASE WITH PREJUDICE; ORDER RETAINING LIMITED JURISDICTION TO RULE ON MOTION TO SHIFT EXPENSES

JUNE 11, 2026

On February 3, 2026, Parent on behalf of Student filed a due process hearing request, called a complaint, with the Office of Administrative Hearings, called OAH, naming Sequoia Career Academy, called Sequoia and Mendocino County Special Education Local Plan Area, called Mendocino County SELPA.

OAH held a prehearing conference on May 8, 2025. On May 12, 2026, OAH issued an order following prehearing conference; order dismissing Mendocino County SELPA for lack of jurisdiction; and order denying Sequoia's motion to dismiss based on res judicata and collateral estoppel.

The undersigned Administrative Law Judge, called ALJ, presided over the due process hearing on May 19, 20, 21, 26, and 27, and June 2, 8, 10, and 11, 2026. Both parties presented documentary evidence and witness testimony.

On day two of the hearing on May 20, 2026, Parent told the ALJ she no longer wished to proceed with the due process hearing. The ALJ had a lengthy discussion with Parent about the consequences of dismissing the action after evidence had been taken and explained a dismissal would be with prejudice, unless Sequoia consented to a dismissal without prejudice. (Code Civ. Proc., § 581, subd. (e).) The ALJ trailed the due process hearing until 1:00 PM that day to provide Parent an opportunity to consider her options and decide how she wished to proceed. Following the break, Parent advised the ALJ she wished to continue with the due process hearing.

Over the course of the subsequent hearing days, Parent and Sequoia questioned Sequoia's Co-Executive Director, Special Education, over seven days on May 19, 20, 21, 26, 27, and June 2 and 8, 2026. The parties questioned Student's special education teacher on May 20, 2026, and a related service provider on May 21, 2026. Parent testified on behalf of Student on June 8, 2026. Following the conclusion of Parent's testimony, Sequoia commenced its questioning of Parent. At the conclusion of the hearing on June 8, 2026, OAH continued the due process hearing to June 10, 2026, at 9:30 AM.

On June 9, 2026, Parent filed a request with OAH to make a ruling on the case based on the existing record. Parent did not serve her request on Sequoia. Parent explained she was ill and was physically and emotionally unable to continue with additional days of testimony. On June 9, 2026, OAH contacted Parent and asked her to appear at the due process hearing on June 10, 2026, at 9:30 AM for the purpose of addressing the issues raised in Parent's June 9, 2026 correspondence. OAH also issued

an electronic invitation requesting that the parties join the due process hearing on June 10, 2026, at 9:30 AM.

On June 10, 2026, at 9:30 AM, the ALJ convened the continued due process hearing. Parent did not appear. At approximately 9:41 AM, the ALJ called Parent and left voice-messages on two telephone numbers registered with OAH as Parent's numbers. The ALJ requested that Parent appear at the due process hearing. The ALJ waited until approximately 11:00 AM, but Parent did not appear.

On June 10, 2026, Sequoia's attorneys argued that the case should be dismissed with prejudice based on Parent's failure to appear. Sequoia argued it did not have an opportunity to obtain essential testimony, specifically testimony by Parent. Sequoia argued that by her actions, Parent demonstrated a clear waiver of her intention not to proceed with the due process hearing.

The ALJ advised Sequoia that OAH was required to issue a decision because the hearing was in progress and substantial evidence was offered by both parties. (*N.R. v. Del Mar Unified School Dist.* (S.D.Cal. 2023) 2023 WL 8532395, *3 (*N.R.*) [citing 20 U.S.C. § 1415(f)(3)(E)(i)].) In *N.R.*, which currently is on appeal before the United States Court of Appeals for the Ninth Circuit, the district court held an ALJ should not have dismissed a case with prejudice for failing to prosecute once the hearing had begun. Rather, "the [Individuals with Disabilities Education Act] states that a decision made by a hearing officer shall be made on substantive grounds based on a determination of whether the child received a free appropriate public education." (*Ibid.*) The court further rejected the school district's argument that the waiver doctrine circumvented the ALJ's obligation to issue a decision under title 20 United State Code section 1415, subdivision (f)(3)(E)(i).)

On June 10, 2026, OAH issued an order continuing the due process hearing to June 11, 2026, at 9:30 AM. OAH determined good cause existed to continue the due process hearing to provide Parent another opportunity to appear for the purpose of completing her testimony. The order advised Parent that in the event she failed to appear, her testimony would be stricken from the record in order to avoid undue prejudice to Sequoia.

On June 10, 2026, at 3:37 PM, Parent filed a document with OAH titled, "Request for Ruling on Existing Record." Parent again requested that OAH issue a ruling based on the existing record. On June 10, 2026 at 4:35 PM, Parent filed a request to dismiss the matter.

On June 11, 2026, at 9:30 AM, OAH convened the due process hearing for the purpose of discussing the case dismissal with the parties. Parent did not appear. Sequoia's attorneys and Co-Executive Director, Special Education appeared. Sequoia informed the ALJ that it was not informed that a case dismissal was filed. Sequoia requested that the case be dismissed with prejudice and that OAH retain jurisdiction for the limited purpose of allowing Sequoia an opportunity to file a motion to shift expenses.

DISMISSAL WITH PREJUDICE

Neither the Individuals with Disabilities Education Act nor the California Administrative Procedures Act specifically address motions to withdraw complaints after a due process hearing commences. Although not binding in special education matters, the Code of Civil Procedure provides guidance in this situation. Specifically, Code of Civil Procedure section 581, subdivision (c), states that a plaintiff may dismiss his or her complaint, or any portion thereof, with or without prejudice prior to the actual trial

commencing. Code of Civil Procedure section 581, subdivision (e), states that after a trial commences a court will dismiss a complaint with prejudice, if the plaintiff's requests a dismissal, unless all parties consent to dismissal without prejudice or the court finds good cause for a dismissal without prejudice.

Here, Parent requested dismissal of Student's case after the hearing commenced and before the matter was submitted for decision. Student's request to dismiss is granted.

Student failed to demonstrate either that the parties agreed to dismissal without prejudice, or that good cause exists to permit dismissal without prejudice. Sequoia did not stipulate to the dismissal, with or without prejudice. Seven hearing days concluded and substantial testimony and documentary evidence was proffered and admitted. A dismissal without prejudice would improperly allow Student to dismiss his case and start over again on another day with another judge. (See Code Civ. Proc., § 581, subd. (e).) This would unfairly expose Sequoia to the possibility of a new hearing on the same matters, necessitating duplicative expenditure of time and effort. Accordingly, dismissal of Student's case with prejudice is appropriate.

RETENTION OF JURISIDICTION BY OAH FOR THE LIMITED PURPOSE OF RULING ON SEQUOIA'S MOTION TO SHIFT EXPENSES

An award of reasonable attorney's fees to the prevailing parent, guardian, or pupil may only be made either with the agreement of the parties following the conclusion of the administrative hearing process or by a court of competent jurisdiction. (20 U.S.C. § 1415(i)(3); Ed. Code, § 56507, subd. (b).) OAH is not a court of competent jurisdiction within the meaning of Education Code section 56507, subdivision (b).

Under certain circumstances, an ALJ presiding over a special education proceeding is authorized to shift expenses from one party to another, or to OAH. (Gov. Code, §§ 11405.80, 11455.30; Cal. Code. Regs., tit. 5, § 3088; see *Wyner ex rel. Wyner v. Manhattan Beach Unified School Dist.* (9th Cir. 2000) 223 F.3d 1026, 1029 ["Clearly, [California Code of Regulations] § 3088 allows a hearing officer to control the proceedings, similar to a trial judge."].) A party may be ordered to pay expenses of a party, or OAH as a result of bad faith actions or tactics that are frivolous or solely intended to cause unnecessary delay. (Cal. Code Regs. tit. 5, § 3088, subd. (a); Gov. Code, § 11455.30.)

OAH will retain jurisdiction over this proceeding for the limited purpose of allowing Sequoia to file a motion to shift expenses. Any motion shall be filed no later than 30 days from issuance of this Order. To the extent Sequoia seeks fees based on the contention Sequoia is the prevailing party, OAH has no jurisdiction to award such fees.

ORDER

1. Student's request to dismiss OAH Case Number 2026020346 is granted.
2. OAH Case Number 2026020346 is dismissed with prejudice.
3. No written decision will be issued in this matter.
4. OAH shall retain jurisdiction for 30 days from issuance of this Order for the limited purpose of allowing Sequoia to file a motion to shift expenses and to rule on any such motion. In the event Sequoia elects to file a motion, it shall serve the motion on Parent.

Jennifer Kelly

Jennifer Kelly
Administrative Law Judge
Office of Administrative Hearings