BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

TRACY UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021040714

ORDER DENYING REQUEST TO VACATE DISMISSAL AND REINSTATE MATTER TO CALENDAR

JULY 22, 2021

On April 16, 2021, Parent on behalf of Student filed a request for due process hearing, called a complaint, naming the Tracy Unified School District. A prehearing conference, called a PHC, was set for May 28, 2021, at 3:00 p.m. By the time of the PHC, Student had not filed the required Participant List or a prehearing conference statement. The PHC was held at the scheduled time, but Student did not appear for it. On June 2, 2021, OAH ordered parent to show cause by June 9, 2021, why the matter should not be dismissed for inactivity. Parent did not respond, and on June 11, 2024, the matter was dismissed for inactivity.

On June 28, 2021, Parent filed a request to quash the dismissal, restore the matter to the calendar, and re-instate the previously scheduled August 11, 2021 hearing date. The request makes numerous factual allegations, not under oath, concerning Parent's alleged failure to receive the order to show cause until June 24, 2021, making timely response impossible. It also alleges, for the first time in this matter, that Parent has no access to electronic mail and can receive documents only by U.S. Mail.

The record shows that on April 22, 2021, OAH's case manager spoke on the telephone to Parent about sending and receiving documents. Parent confirmed that he had signed up to use OAH's Secure File Transfer system. He provided an email address where he could be served. Subsequently OAH served all documents to that email address, including the Order to Show Cause. The file also shows that San Jose has been serving pleadings to the same electronic address.

Parent's present assertion that he can only receive mail through the U.S. Mail contradicts his previous acceptance of and participation in OAH's Secure File Transfer system. Parent does not explain why he had not previously alerted OAH of any change in his circumstances. Parent admits to receiving the Order to Show Cause on June 24, 2021 but does not explain how that came about. Nor is there any response in Parent's current motion to the requirement of the Order to Show Cause that Parent explain why he did not file a prehearing conference statement or a participant list, and why he did not appear for the prehearing conference. Parent does not explain why he wants to go to hearing on August 11, 2021, as previously scheduled, or why he wants to skip the prehearing conference procedure entirely. Parent's representations are therefore unpersuasive.

Should Parent refile his complaint, he is strongly encouraged to provide a written statement describing how he can be served and receive documents as the new matter proceeds.

Parent's motion to restore this matter to the calendar and vacate the dismissal is denied.

Charles Marson

Charles Marson
Administrative Law Judge
Office of Administrative Hearings