BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

YUBA CITY UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2023020646

# ORDER DISMISSING COMPLAINT WITHOUT PREJUDICE

APRIL 17, 2023

On February 16, 2023, Student filed with the Office of Administrative Hearings, called OAH, a request for a due process hearing, called a complaint, naming the Yuba City Unified School District. The matter was set for due process hearing on April 11, 2023. On April 10, 2023, at 11:37 a.m., Student filed a request that her complaint be dismissed without prejudice.

On April 12, 2023, Yuba City filed an opposition to the request to dismiss the complaint without prejudice, accompanied by a declaration from attorney Dee Anna Hassanpour. In the opposition, Yuba City argued that Student's complaint should be dismissed with prejudice and also requested that Student be sanctioned for its costs in preparing for hearing. The ground for the opposition was that Student's attorney had engaged in tactics that were frivolous or solely intended to delay because she waited

until 11:37 a.m. on April 10, 2023, to file a request for dismissal. Yuba City contends that Student's attorney must have engaged in bad faith tactics because filing for dismissal that close to the start of hearing forced Yuba City to incur substantial expenses preparing for hearing.

However, the declaration of attorney Hassanpour also states that the parties attempted to negotiate a settlement through Sunday, April 9, 2023, but were unable to reach agreement. Yuba City does not assert that Student's attorney entered into or engaged in the settlement negotiations in bad faith. Monday, April 10, 2023, was the first business day after the settlement discussions failed. Student could not have known the outcome of the negotiations until the day before she requested dismissal.

The record therefore does not contain sufficient information to support Yuba City's claim that Student's attorney engaged in bad faith tactics in the timing of her request for dismissal. Settlement negotiations just before hearing dates are common in special education due process disputes and are encouraged by OAH. Requests for dismissal the day before a scheduled hearing are also common, and in every such case the non-filing party can identify substantial hearing preparation costs that proved to be unnecessary.

The timing of Student's request for dismissal does not, without more, establish that Student's attorney acted in bad faith, and would not justify a dismissal with prejudice or the imposition of sanctions.

At Student's request, her complaint is dismissed without prejudice.

IT IS SO ORDERED.

*Charles Marson*

Charles Marson
Administrative Law Judge
Office of Administrative Hearings