

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 NO. 2009091903

ORDER DENYING ORDER TO SHOW
CAUSE AND GRANTING A MOTION
TO WITHDRAW THE DUE PROCESS
COMPLAINT

On September 30, 2009, Student filed a request for Due Process Hearing (Complaint) against the Los Angeles Unified School District (District).¹ On February 17, 2010, the Office of Administrative Hearings (OAH) issued a Scheduling Order and Notice of Due Process setting a Pre-hearing conference on April 12, 2010 and the Due Process Hearing on April 26, 2010 through April 28, 2010 at 320 West Fourth Street, 6th Floor, Los Angeles, CA 90013 (OAH Los Angeles).

At the April 12, 2010 Pre-Hearing Conference, Father appeared and informed the ALJ that he desired to represent Student. On April 19 and April 20, 2010, a telephonic Pre-hearing Conference was held. Father appeared on behalf of Student and attorney Peter Sansom appeared on behalf of District. On April 22, 2010, OAH issued an Order Following Pre-hearing Conference.

On April 26, 2010 at 9:30 a.m., District's attorney Diane Willis appeared on behalf of the District and no one appeared on behalf of Student. Because Student had not diligently pursued this matter and had not appeared at the Due Process Hearing, Student was ordered to show cause and appear telephonically on April 30, 2010 at 10:00 a.m. for a hearing on an Order to Show Cause regarding dismissal. On April 27, 2010, OAH issued and served the Order to Show Cause. The Order also stated that if Student demonstrates that the matter should not be dismissed, the hearing shall commence on May 3, 2010 at 9.30 a.m. through May 5, 2010.

On April 30, 2010, at 10:00 a.m., the telephonic Order to Show Cause Hearing commenced and this hearing was recorded. Father appeared on behalf of Student and Diane Willis, Attorney at Law, appeared on behalf of District. Father presented an excusable reason regarding his failure to appear at the April 26, 2010 Due Process Hearing. Because

¹ A request for a due process hearing under Education Code section 56502 is the due process complaint notice required under Title 20 United States Code section 1415(b)(7)(A).

Father presented good cause, the Complaint was not dismissed, and the Due Process Hearing was scheduled to proceed on May 3, 2010.

However, Father stated that he did not want to proceed to hearing and wanted to withdraw his Complaint. He also indicated that on April 27, 2010, he sent a letter by facsimile to OAH and to District's attorney stating that he does not want to proceed to hearing and his due process request is withdrawn. District's attorney replied that she had not received this letter.

District had no objection to Father's motion to withdraw the Complaint and requested that the matter be dismissed. Father stated that he had no objection to dismissal, and he would send OAH and District another copy of his request to withdraw. Because Father requested that Student's Complaint be withdrawn, District requested the case be dismissed. Good cause exists to grant Father's motion to withdraw Student's Complaint in the above captioned matter.

ORDER

1. Dismissal on the basis of the Order to Show Cause is denied.
2. Student's request to withdraw the Due Process Complaint is granted and the Complaint is hereby dismissed.
3. The hearing dates of May 3, 2010 through May 5, 2010 are vacated.

Dated: April 30, 2010.

/s/

CLARA SLIFKIN
Administrative Law Judge
Office of Administrative Hearings