

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

TUSTIN UNIFIED SCHOOL DISTRICT  
AND ORANGE COUNTY MENTAL  
HEALTH.

OAH CASE NO. 2011020391

ORDER TO SHOW CAUSE  
RE:DISMISSAL

On February 08, 2011, Student filed a request for an expedited due process hearing (complaint) against the Tustin Unified School District (District) and Orange County Mental Health (OCMH). On February 24, 2011, Student filed a Request to Dismiss the expedited hearing. On March 25, 2011, Student filed a Motion to Amend the Due Process Complaint. On March 29, 2011, the Office of Administrative Hearings (OAH) issued an Order Granting Student's Motion to Amend the Complaint. On March 29, 2011, OAH issued a Scheduling Order setting the following dates: Mediation on May 3, 2011, Telephonic Prehearing Conference (PHC) on May 18, 2011; and Due Process Hearing on May 24, 2011.

Advocate Jillian Bonnington (Student's Advocate) represents Student. Student failed to file a PHC Statement. On May 13, 2011, District filed its PHC Statement. Student's Advocate also failed to file a Motion to Continue the PHC prior to the hearing.

On May 18, 2011, a PHC was scheduled to take place at 1:30 p.m., before Administrative Law Judge (ALJ) Clara L. Slifkin OAH. At 1:30 p.m., Student's Advocate was telephoned and a voice mail message was left that the PHC would be trailed to 2:00 p.m. Again, at 2:00 p.m., Student's Advocate was not available and a message was left that the matter would proceed. Jennifer Brown, Attorney at Law, appeared on behalf of District. Nikhill G. Daftary, Deputy County Counsel appeared on behalf of OCMH. The PHC did not proceed but it was trailed until May 23, 2011 at 10:00 a.m. The hearing was recorded.

If the parent and local education agency have not resolved the due process complaint within 30 days of the receipt of the complaint, OAH is required to issue a decision within the next 45 days, unless a continuance is granted for good cause. (20 U.S.C. § 1415(f)(1)(B)(ii); 34 C.F.R. § 300.51; Ed. Code, § 56502, subd. (f).)

Here, Student has not diligently pursued this matter by failing to appear at the PHC, file a PHC statement, or request a continuance for good cause. Given the delays in this matter, Student is ordered to appear and show cause why this matter should not be dismissed

at a telephonic hearing scheduled for May 23, 2011, at 10:00 a.m. The parties must be prepared for a prehearing conference and due process hearing if they demonstrate that the matter should not be dismissed.

IT IS SO ORDERED.

Dated: May 18, 2011

/s/

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CLARA SLIFKIN  
Administrative Law Judge  
Office of Administrative Hearings