

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SWEETWATER UNION HIGH SCHOOL  
DISTRICT.

OAH CASE NO. 2011120775

ORDER TO SHOW CAUSE WHY  
CASE SHOULD NOT BE DISMISSED

On December 21, 2011, Student filed a request for due process hearing (complaint). On January 24, 2012, counsel for Student submitted to the Office of Administrative Hearings (OAH) a request to vacate the initially scheduled hearing dates in the case and set a Status Conference, based upon an interim agreement reached by the parties. OAH will set a Status Conference only when the parties have reached a final agreement that is subject to board approval. However, OAH agreed to continue the scheduled hearing dates in order to allow the parties to reach a final agreement. On January 24, 2012, OAH continued the Prehearing Conference (PHC) to April 2, 2012 at 1:30 p.m. and the Due Process Hearing to April 10 and 11, 2012.

On March 30, 2012, counsel for Student submitted to OAH a letter requesting a continuance for the PHC until sometime after the conclusion of Student's individualized education program meeting, which had not yet been scheduled. This letter failed to indicate whether the local education agency (LEA) had been contacted regarding this request and failed to set forth good cause for a continuance. Further, the letter failed to include proposed dates for the continued hearing.

If the parent and LEA 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 and failed to appear at the PHC scheduled for April 2, 2012. The Administrative Law Judge (ALJ) attempted to contact counsel for Student several times for the PHC, and left counsel three messages to immediately contact OAH regarding the PHC. The ALJ also trailed the PHC from 1:30 p.m. to 3:00 p.m., so as to give time for Student's counsel to contact OAH and appear at the trailed PHC. While neither the Student nor the LEA submitted PHC statements, the LEA

appeared at the 1:30 p.m. PHC. Student's counsel failed to appear at the PHC at 1:30 p.m. or 3:00 p.m., and failed to respond to the ALJ's telephonic messages.

Student is hereby ordered to show cause in writing no later than April 4, 2012 at 1:30 p.m. as to why this matter should not be dismissed for lack of activity. A PHC will reconvene on April 4, 2012 at 3:00 p.m.

IT IS SO ORDERED.

Dated: April 02, 2012

/s/

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PAUL H KAMOROFF  
Administrative Law Judge  
Office of Administrative Hearings