

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SAN JOSE UNIFIED SCHOOL DISTRICT  
AND SANTA CLARA COUNTY OFFICE  
OF EDUCATION.

OAH Case No. 2015120777

ORDER VACATING ORDER TO  
SHOW CAUSE

On April 22, 2016, Administrative Law Judge Dena Coggins, Office of Administrative Hearings, attempted to convene the scheduled telephonic prehearing conference in this matter. The undersigned ALJ attempted to reach Barbara Fielden, Student's attorney, at the telephone numbers listed on the pleadings. Ms. Fielden could not be reached despite multiple attempts to reach her. Counsel for San Jose Unified School District and Santa Clara County Office of Education was available for the PHC. The ALJ did not convene the PHC on April 22, 2016 because of Ms. Fielden's unavailability.

On April 26, 2016, the Office of Administrative Hearings issued an order to show cause for Ms. Fielden to establish why she failed to participate in the scheduled PHC and advance the case for hearing. A telephonic hearing on the order to show cause was set for April 29, 2016.

An ALJ has the duty and responsibility to control due process proceedings under the Individuals with Disabilities Education Act similar to those in a civil or criminal action before other tribunals. Counsel appearing before OAH should be aware of OAH's policies regarding notification of settlements and requests for continuances, as well as the obligation of counsel to appear for all calendared matters. These procedures are in place to ensure that cases are processed in a timely manner. The procedures are designed to protect the rights of all parties. When the procedures are not followed, the impact upon OAH and the parties' rights can be significant. Ms. Fielden's failure to appear resulted in wasted time and resources not only for this tribunal but for San Jose and Santa Clara as well.

On April 29, 2016, Ms. Fielden and counsel for San Jose and Santa Clara appeared for the hearing on the order to show cause. Ms. Fielden adequately explained her calendaring error, which resulted in her non-appearance at the PHC. Although Ms. Fielden genuinely accepts responsibility for not appearing at the PHC, such conduct will not be tolerated in the future. Ms. Fielden is hereby on notice that if such conduct occurs again,

OAH may entertain shifting costs to her. The order to show cause is vacated. The status conference, set for June 15, 2016, will remain on calendar.

IT IS SO ORDERED.

DATE: April 29, 2016

DocuSigned by:



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DENA COGGINS

Administrative Law Judge

Office of Administrative Hearings