

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

AZUSA UNIFIED SCHOOL DISTRICT,
COVINA VALLEY UNIFIED SCHOOL
DISTRICT, and LOS ANGELES COUNTY
OFFICE OF EDUCATION

OAH CASE NO. 2010050599

ORDER TO SHOW CAUSE AS TO
WHETHER MATTER SHOULD BE
DISMISSED

On May 20, 2010, Student filed a request for due process hearing (complaint) with the Office of Administrative Hearings (OAH). On June 22, 2010, OAH granted a continuance of the mediation, prehearing conference (PHC) and due process hearing dates. On August 6, 2010, another continuance was granted. On October 19, 2010, the parties attended mediation, and continued the PHC and hearing dates respectively to January 10, 2011, and January 24-28, 2011. On January 6, 2011, OAH granted another continuance.

On January 18, 2011, another mediation was convened, and on January 24, 2011, OAH was informed that the parties had executed a settlement agreement. On January 27, 2011, OAH received a fax from the attorney representing both school districts (Azusa and Covina Valley) notifying OAH that the Board [of Education] would be meeting February 2, 2011, to approve the settlement agreement. The attorney did not indicate which District's Board needed to approve the agreement. OAH then set a telephonic status conference for February 3, 2011, at 1:30 p.m.

The undersigned attempted to contact counsel for the parties on February 3, 2011, at 1:30 p.m. Only the attorney for the Office of Education was available, and she stated that she thought the matter had been withdrawn by Student, due to the settlement agreement. Student's attorney contacted OAH later that afternoon, and stated that she was waiting to hear from the attorney representing both Districts as to whether the Board had approved the agreement. Once she had this information, Student would be submitting a notice of withdrawal.

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 and the Districts have not diligently pursued this matter and did not appear at the status conference. Student's counsel has not filed a notice of withdrawal. Given the lengthy delays in this matter, Student is ordered to either file a notice of withdrawal, or to show cause in writing no later than February 17, 2011, at 5:00 p.m. as to why this matter should not be dismissed.

IT IS SO ORDERED.

Dated: February 4, 2011

/s/

REBECCA FREIE
Administrative Law Judge
Office of Administrative Hearings