

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

HAYWARD UNIFIED SCHOOL  
DISTRICT.

OAH CASE NO. 2012090581

ORDER DISMISSING STUDENT'S  
REQUEST FOR DUE PROCESS  
HEARING WITHOUT PREJUDICE,  
PURSUANT TO ORDER TO SHOW  
CAUSE

On September 17, 2012, Student filed a request for due process hearing (complaint) with the Office of Administrative Hearings (OAH). On December 19, 2012, the Parent on behalf of Student failed to participate in the prehearing conference (PHC) and was ordered to show cause (OSC) at a telephonic hearing on December 26, 2012 at 10:00 a.m., as to why this matter should not be dismissed for failure to participate, prosecute, or advance the matter.

Administrative Law Judge (ALJ) Theresa Ravandi conducted the OSC on December 26, 2012 at 10:00 a.m. Attorney James Meeker appeared on behalf of the Hayward Unified School District (District). There was no appearance on behalf of the Student. The undersigned attempted to reach the Parent on both her home phone number and her cell number at the time set for the OSC. Each call went to a voicemail system and the undersigned left a message at each number informing the Parent that the OSC hearing would be conducted in her absence unless she immediately called the OAH. OAH did not receive a call from the Parent. The hearing on the OSC was recorded. The District has not had any recent communication from the Parent regarding this matter. The District requested that the matter be dismissed.

Pursuant to the amended scheduling order issued on November 5, 2012 and served upon the Parent at her address of record by overnight mail, Student was required to file a prehearing conference statement by December 14, 2012, three business days prior to the PHC conference on December 19, 2012. Parent failed to file a PHC statement despite a reminder call from OAH staff. Pursuant to the December 14, 2012 Order Requiring Verification That Mother Filed Complaint and Documentation of Educational Rights, which was also served upon the Parent via overnight mail, Mother was ordered to submit to OAH within five business days of the date of the order, a written statement indicating whether or not she filed the complaint in this matter. This Order informed Parent that failure to do so would result in dismissal of Student's case. Parent failed to submit such documentation. ALJ Carla Garrett advised the Parent in a voicemail message on December 19, 2012 that

Student's case would be dismissed if the Mother failed to participate in the telephonic OSC on December 26, 2012. Furthermore, on December 21, 2012, OAH served the Parent with the December 19, 2012 Order to Show Cause Re: Dismissal by overnight mail.

#### APPLICABLE LAW AND DISCUSSION

The Individuals with Disabilities Education Improvement Act requires speedy resolution of complaints. 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. § 300.515 (2006); Ed. Code, § 56502, subd. (f).)

Here, the Parent has not diligently pursued this matter. The Parent did not participate in the order to show cause hearing as to why Student's case should not be dismissed. The Parent has not filed a PHC statement nor provided written documentation as to whether or not she filed the complaint in this matter. This matter is hereby dismissed, without prejudice, due to the Parent's failure to participate in this case.

IT IS SO ORDERED.

Dated: December 26, 2012

/s/

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THERESA RAVANDI  
Administrative Law Judge  
Office of Administrative Hearings