

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. LONG BEACH UNIFIED SCHOOL DISTRICT,	OAH CASE NO. 2014080109
LONG BEACH UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH CASE NO. 2014080327 ORDER DENYING DISTRICT'S MOTION TO DISMISS STUDENT'S CASE

On January 28, 2015, District filed a motion to dismiss Student's case because of Student's alleged failures to prosecute his case or meaningfully participate in the case. OAH has not received a response from Student to District's motion to dismiss.

District's motion complains that documents District sent to Parent on December 5, 2014 and January 13, 2015, were returned to District by the commercial delivery service because at the times the delivery service attempted to deliver the documents to Parent's home, Parent did not respond. District's motion also makes much of Parent's failure to appear at a telephonic Prehearing Conference, which resulted in the issuance of an Order to Show Cause Why Student's Case Should Not Be Dismissed. However, Parent appeared three days later at the telephonic hearing regarding that Order to Show Cause, and also appeared at the next telephonic Prehearing Conference, five weeks later.

District's motion is largely based upon Student's failure to submit Prehearing Conference Statements, as required by OAH order, and alleged failure to timely provide District a list of witnesses and copies of exhibits Student intends to present at hearing, as required by Education Code section 56505, subdivision (e)(7). However, the consequence of Student's alleged failure to timely provide District a list of witnesses and copies of exhibits Student intends to present at hearing is not dismissal of the hearing request. Instead, Student's alleged failure to exchange evidence may result in exclusion of evidence and will be addressed at the hearing.

District's motion to dismiss Student's case is denied. The matter shall proceed as scheduled.

IT IS SO ORDERED.

DATE: January 29, 2015

/s/

KARA HATFIELD
Administrative Law Judge
Office of Administrative Hearings