

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

SAN BRUNO PARK SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH Case No. 2015110053

NOTICE OF RECEIPT OF EX PARTE  
COMMUNICATION AND NOTICE OF  
NO ACTION

On December 4, 2015, the Office of Administrative Hearings received an ex parte communication from Student in the form of a four-page letter signed by Parent, addressed to Administrative Law Judge Theresa Ravandi, and filed in OAH Case Number 2015110053. This letter did not include a proof of service upon San Bruno Park School District's counsel of record. On December 10, 2015, OAH staff informed Parent that the ALJ would not consider any filing that was not accompanied by a proof of service. Parent indicated she would re-file this document with a proof of service.

On December 15, 2015, Parent filed an additional six-page letter labeled "Denial of Records Requested" with 10 pages of attachments. Parent indicated in her proof of service that this second document was served on San Bruno's counsel via electronic correspondence on December 15, 2015. Although Student's second letter substantially incorporates the first letter, the December 4, 2015 letter is not identical and therefore constitutes an ex parte communication.

Ex parte communications are not permitted while a due process proceeding is pending. "While special education due process hearing proceedings are pending there shall be no communication, direct or indirect, regarding any issue in the proceeding, to a hearing officer from an employee or representative of a party or from an interested person unless the communication is made on the record at the hearing." (Cal. Code. Regs., tit. 5, § 3084, subd. (a).) When an ex parte communication is received, the administrative law judge presiding over the matter must disclose the communication to all parties, make it part of the record, and allow the parties an opportunity to address the matter within 10 days of receipt of the notification of communication. (Cal. Code. Regs., tit. 5, § 3084, subds. (c)-(e).)

The ALJ is hereby disclosing to San Bruno receipt of Student's ex parte communication dated December 4, 2015, and making it part of the record in this matter by attaching a copy to this Notice of Ex Parte Communication and Notice of No Action.

Student's December 15, 2015 letter details Parent's requests for various Student records submitted to San Bruno, Learning Links Preschool, and Community Gatepath, and requests that all records be provided to Parent within three days. Student's letter further alleges in summary that: (1) Parent has been denied the right to review all educational records; (2) Student has not met his goals; (3) San Bruno has denied Student a free appropriate public education by predetermining his services and failing to provide necessary services, placement and assessments; (4) San Bruno has violated a settlement agreement; (5) San Bruno has failed to implement Student's individual education program; and (6) San Bruno has pressured Parent to sign IEP documents, has falsified information, has shown prejudice, retaliation, and discrimination against Student.

No action will be taken by OAH in response to either of Student's letters and these letters will not be considered evidence in this matter unless admitted into the record at the time of hearing, subject to objection by San Bruno. In regards to Student's allegation that he has been denied access to his educational records, Student may file his own request for a due process hearing and specifically identify what records he has been denied access.

Further, nothing in this Notice prevents either party from using the OAH subpoena process for requesting records as outlined in the OAH guide, "Understanding Special Education Due Process Hearings" found on the OAH website located at <http://www.documents.dgs.ca.gov/oah/SE>.

DATE: December 17, 2015

/s/

---

THERESA RAVANDI  
Administrative Law Judge  
Office of Administrative Hearings