

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

SAN MATEO-FOSTER CITY SCHOOL
DISTRICT.

OAH CASE NO. 2012090848

ORDER DISMISSING STUDENT'S
REQUEST FOR DUE PROCESS
HEARING

On November 19, 2012, Parents on behalf of Student (Student) failed to participate in the prehearing conference (PHC) and failed to timely submit a PHC statement pursuant to the Scheduling Order dated September 27, 2012. Student was ordered to show cause in writing why this case should not be dismissed for her failure to participate, prosecute or advance the case for hearing. Parents were ordered to file a written response with the Office of Administrative Hearings (OAH) no later than 10:00 a.m. on November 26, 2012, and to participate in a telephonic conference regarding this Order to Show Cause (OSC) on Monday, November 26, 2012 at 3:00 p.m. OAH served Parents with the OSC and Order following PHC by overnight mail on November 19, 2012.

OAH did not receive a written response from Parents. At the time set for the OSC on November 26, 2012, the undersigned administrative law judge (ALJ) contacted the Mother at her number of record. During the ALJ's preliminary contact with the Mother, while attempting to convene the OSC, the Mother indicated that this matter was withdrawn as of November 7, 2012, and that the Parents were no longer pursuing this case on behalf of Student. Mother indicated that she would not participate in the OSC and would not hold the line for the ALJ to conference in the attorney for the San Mateo-Foster City School District (District). The Mother stated she understood the undersigned would dismiss the case pursuant to the OSC and did not understand why OAH continued to contact the Parents, or why OAH did not receive notice that the case was withdrawn.

The ALJ then proceeded with the OSC. Attorney Lenore Silverman appeared on behalf of the District. The hearing on the OSC was recorded. There was no appearance for the Student.

Here, Parents on behalf of Student have not diligently pursued this matter. Parents failed to submit a PHC statement, failed to participate in the PHC on November 19, 2012, failed to submit a written notice of withdrawal of this matter, failed to submit a written response to the OSC and refused to participate in the telephonic conference specifically set

for November 26, 2012 at 3:00 pm. Mother informed the ALJ that it was Student's belief the matter was withdrawn and it was Student's request that the matter be dismissed. This matter is hereby dismissed due to the Parents' failure to prosecute this case. Given the expense the District incurred in preparing this matter for hearing, the District's request to dismiss the matter with prejudice is understandable. However, this request is denied so as to not penalize Student for the inaction of her Parents.

IT IS SO ORDERED.

Dated: November 26, 2012

/s/

THERESA RAVANDI
Administrative Law Judge
Office of Administrative Hearings