

Before the
Administrative Hearing Commission
State of Missouri



AND , IN THE INTEREST OF ,)
)
 Petitioner,)
)
 vs.) No. 13-1753 ED
)
)
 LEBANON R-III SCHOOL DISTRICT,)
)
 Respondent.)
)
)
)
)

ORDER

We dismiss this case as a sanction, because Petitioner failed to comply with our orders to file a prehearing conference statement.

Under 1 CSR 15-3.436(1)(C) and 1 CSR 15-3.425(1)(A), this Commission may impose sanctions, including the sanction of dismissal, for a party's failure to comply with our orders.

and filed a due process complaint herein in the interest of , Student, on October 7, 2013. The same day, we set a prehearing conference for October 16, 2013 and ordered the parties to file prehearing conference statements no later than three business days prior to the conference. Respondent Lebanon R-III School District filed its prehearing conference statement on October 11, 2013. The es did not file one.

We convened the prehearing conference by telephone on October 16, 2013. Because of Petitioner's failure to file the prehearing conference statement, we did not proceed. We ordered Petitioner to file the statement no later than Friday, October 25, 2013 and rescheduled the prehearing conference for Tuesday, October 29, 2013. The deadline of Friday, October 25 was memorialized in our Order of October 17, 2013.

The did not file a prehearing conference statement on October 25. Instead, on October 25, they filed a motion for extension of time, stating, "[T]he ' have sought legal counsel, [who] should be entering their appearance in the case sometime next week. We ask for extensions of time until legal counsel is able to enter their appearance and file all needed paperwork for motions and pending orders."

The es failed to comply with our Order of October 7, 2013 to file a prehearing conference statement. Notwithstanding that they have been on notice since the beginning of the case that such statement is required, and notwithstanding our Order of October 17 granting them an additional week to file it, they have failed to file one. The filed the due process complaint herein without legal counsel, and even if they are seeking counsel now, they do not have one at this time. They are responsible for complying with the Commission's orders. Such requirement is more than a technicality. This type of case is on a fast track, by operation of law, and our orders, including ones establishing deadlines, help ensure the orderly and prompt disposition of such cases. Accordingly, we dismiss.

We note that no prejudice attaches to this dismissal and that a complaint may be filed anew. We further note that the parties may seek mediation of the dispute, at no charge to the parties, and prior to the filing of a due process complaint, pursuant to 34 CFR 300.506.

Summary

We dismiss the instant case. We cancel the prehearing conference scheduled for October 29, 2013, and cancel the hearing scheduled for December 4 and 5, 2013.

SO ORDERED on October 28, 2013.

ALANA M. BARRAGAN-SCOTT
Commissioner