BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS INVOLVING:

PARENT ON BEHALF OF STUDENT

AND

MAGNOLIA SCIENCE ACADEMY - SANTA ANA,

OAH CASE NUMBER 2023010808

OAH CASE NUMBER 2023010438

ORDER TO SHOW CAUSE WHY STUDENT'S ISSUES SHOULD NOT BE DISMISSED FOR INACTIVITY AND ORDER CONTINUING PREHEARING CONFERENCE, FOR STUDENT'S COMPLAINT

APRIL 03, 2023

On April 3, 2023, Administrative Law Judge Clifford H. Woosley, Office of Administrative Hearings, convened a prehearing conference by videoconference, for these consolidated cases. The Administrative Law Judge is called an ALJ. The Office of Administrative Hearings is called OAH. The prehearing conference is called a PHC.

Rebecca Diddams, Attorney at Law, appeared on behalf of Magnolia Public Schools, dba Magnolia Science Academy – Santa Ana, referred to a Magnolia Science. CART Captioner, Kelli Murphy, was available at Parents' request. The PHC was recorded.

Parents on behalf of Student did not appear when the PHC was initially convened at 3:00 PM, April 3, 2023. The Parents were provided additional time to appear. ALJ Woosley reconvened the PHC at 3:25 PM. Parents had not appeared. The PHC therefore proceeded as to Magnolia Science's case.

APPLICABLE LAW

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. § 300.51; Ed. Code, § 56502, subd. (f).)

ORDER TO SHOW CAUSE AND CONTINUANCE OF PREHEARING CONFERENCE

Parents on behalf of Student filed the request for due process on January 26, 2023. Pursuant to OAH's February 2, 2023 Order Finding Student's Complaint insufficient, all dates were vacated, and Parents were given an opportunity to amend Student's complaint. On February 6, 2023, Parents on behalf of Student filed Student's amended complaint.

On February 6, 2023, OAH issued a Scheduling Order, setting the PHC for March 17, 2023, and the hearing for March 28, 2023. The Scheduling Order instructed the parties to file and serve a Prehearing Conference Statement at least three business days before the prehearing conference.

Parents filed a request to continue because the PHC and hearing dates conflicted with Parent's training associated with a new job. On March 16, 2023, OAH issued an order granting continuance to the dates requested by Parents, setting the PHC for April 3, 2023, at 3:00 PM, and the hearing for April 11, 12, and 13, 2023.

On March 17, 2023, OAH granted Magnolia Science's motion to consolidate its previously filed due process complaint with Student's complaint. Student's case was deemed primary, and the consolidated matters were set for the dates set in Student's case. That is, April 3, 2023 for the PHC and April 11, 2023 for the hearing. OAH properly served Parents with the scheduling order on February 6, 2023, the continuance order on March 16, 2023, and the consolidation order on March 20, 2023

Here, Student has not diligently pursued this matter. Parents on behalf of Student failed to file a prehearing conference statement and failed to appear at the prehearing conference.

Given the failure to follow orders and diligently pursue this matter, Student is ordered to show cause and file a written response with OAH, no later than 5:00 PM, Thursday, April 6, 2023, explaining why Student's issues in this matter should not be dismissed for lack of activity, because Parent did not file a prehearing conference statement and did not appear at the April 3, 2023 prehearing conference. Student shall also file a prehearing conference statement. If Parents fail to timely file a response to this Order to Show Cause, with a prehearing conference statement, the matter will be dismissed on April 7, 2023, and the consolidated matter will proceed to hearing on Magnolia Science issues, only.

If Parent timely files a response to the OSC, with a prehearing conference statement, a hearing on the Order to Show Cause is set for videoconference hearing at:

1:00 PM, Monday, April 10, 2023.

If Student successfully shows cause why this matter should not be dismissed, the parties will then participate in a prehearing conference on Student's issues, which is continued to:

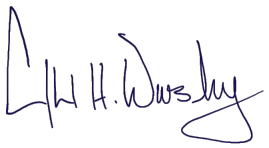
1:00 PM, Monday, April 10, 2023.

The due process hearing on the consolidated matters is continued to:

April 18, 19, and 20, 2023

The hearing shall begin at 9:30 AM on all days unless otherwise ordered. The hearing shall continue day to day, as needed at the discretion of the Administrative Law Judge. Prehearing conference statements and motions are due to OAH no later than three business days before the prehearing conference or with a showing of good cause why it was not possible to file the motion by that date.

IT IS SO ORDERED.



Clifford H. Woosley
Administrative Law Judge
Office of Administrative Hearings