BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. LOS ANGELES UNIFIED SCHOOL DISTRICT,	OAH Case No. 2018060459
LOS ANGELES UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2018100624 ORDER TO SHOW CAUSE WHY STUDENT'S CASE SHOULD NOT BE DISMISSED

On June 11, 2018, Parent on behalf of Student filed the due process hearing request (Complaint) in this matter against Los Angeles Unified School District. On June 12, 2018, the Office of Administrative Hearings set a prehearing conference for June 27, 2018, and due process hearing for August 7, 2018. On July 23, 2018, OAH granted the parties' joint request for continuance and the PHC was set for October 5, 2018, and the hearing for October 16, 17 and 18, 2018. The Order was served on the parties.

On October 5, 2018, a PHC was held and Parent requested a continuance of the hearing, due to her attorney substituting out of the case. The request was granted, and a PHC was scheduled for October 29, 2018, and the hearing was scheduled for November 6, 7, and 8, 2018. On October 22, 2018, the above captioned matters were ordered consolidated, based upon Los Angeles Unified's motion and Student's non-opposition.

On October 29, 2018, the PHC was held, and Student's attorney requested a continuance to allow for a mediation to be held, which was granted. The PHC was continued to January 14, 2019, at 10:00 a.m., and the hearing was scheduled for January 22, 23 and 24, 2019.

The PHC was held on January 14, 2019 at 10:00 a.m. by ALJ Deborah Myers-Cregar. Los Angeles Unified requested a two-week continuance of the Due Process Hearing, due to the work stoppage of Los Angeles Unified's teachers, who would be deemed unavailable as witnesses. Parent opposed the motion, although she was relying upon the same witnesses.

The ALJ granted the continuance request, and the PHC was set for January 25, 2019 at 10:00 a.m., and the hearing was scheduled for February 5, 6, and 7, 2019. Parent requested two reasonable accommodations, a 1:00 p.m. start time due to her insomnia, and an electronic recording of the hearing. The ALJ allowed for a 10:00 a.m. start time of the hearing, and allowed a for conditional electronic recording of the hearing. The parties were given oral notice of the PHC while on the record, and written notice of the PHC order on January 15, 2019.

On January 25, 2019, ALJ Deborah Myers-Cregar convened the Prehearing Conference. She called the Parent at 10:00 a.m., 10:04 a.m., 10:07 a.m., and 10:30 a.m. Parent did not respond to these calls. Parent did not file any motions indicating she would not be available for the January 25, 2019 PHC. The ALJ used Parent's official contact telephone number, which had been successful during the prior PHCs. The ALJ left a message on the voicemail, requesting that Parent call OAH to participate in the PHC, and stating that the case would be subject to dismissal unless Parent appeared at the PHC. Parent did not call OAH at any time during the PHC at 10:00 or at 10:30 a.m..

The Administrative Procedures Act governs hearings held before the Office of Administrative Hearings. Government Code section 11455.10 states that a person is subject to the contempt sanctions for disobedience of or resistance to a lawful order. California Education Code section 56500.1, et. seq., sets forth the procedural safeguards for Due Process Hearings. Education Code section 56502 establishes the procedural requirements and timelines for holding Due Process Hearings and issuing decisions, absent continuance requests. Education Code section 56505 establishes the rights of the parties to be informed by the other party to the hearing what those parties believe are the issues to be decided at the hearing and their proposed resolution of those issues, at least 10 days before the hearing. It also establishes the rights of the parties to receive a copy of all documents and a list of all witnesses intended to be presented at hearing, at least five business days before the hearing. These are detailed in OAH's Pre-Hearing Conference Order.

Therefore, the ALJ issues the following Order:

1. Order to Show Cause: A telephonic Order to Show Cause re: Dismissal hearing is set for February 1, 2019, at 10:00 a.m., at which both parties must appear, and at which time Student must appear and show cause, if any, why Student's Complaint should not be dismissed for failure to prosecute this matter. OAH will initiate the telephone call to convene the hearing. If Student fails to appear for the Order to Show Cause re: Dismissal hearing, then Student's Complaint will be dismissed without prejudice for failure to prosecute this matter.

2. The current dates set for the Due Process hearing shall remain on calendar.

IT IS SO ORDERED.

DATE: January 25, 2019

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Deborah Myers-Cregar
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DEBORAH MYERS-CREGAR
Administrative Law Judge
Office of Administrative Hearings