BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

SACRAMENTO CITY UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2019070916

ORDER TO SHOW CAUSE AS TO WHY STUDENT SHOULD NOT BE ORDERED TO PAY COSTS FOR FAILING TO APPEAR FOR PREHEARING CONFERENCE, AND WHY THE COMPLAINT SHOULD NOT BE DISMISSED, AND CONTINUING MATTER

On December 9, 2019, a telephonic prehearing conference was scheduled before Administrative Law Judge Cynthia Fritz, Office of Administrative Hearings, known as OAH. The hearing was scheduled for 1:00 p.m. The undersigned ALJ attempted to convene the prehearing conference at 1:00 pm. Kyle Raney, Attorney at Law, appeared on behalf of Sacramento City Unified School District. Two attempts were made to contact Student at the telephone number shown on the request for due process hearing filed on Student's behalf, and at a cell phone number proffered by Parent. The number listed in the due process hearing complaint was not in service. There was no answer, and two messages were left, approximately ten minutes apart at the cell phone number.

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).)

DISCUSSION

Given the short time frames applicable to this case, it is critical that the parties follow orders issued by OAH and participate in advancing the matter to hearing or resolution. Student's non-compliance with procedure and failure to participate put the timely resolution of this matter in doubt. Student is responsible for understanding and following OAH's procedures, including making all required appearances. Failure to do so may result in the complaint being dismissed.

Student is ordered to file a declaration with OAH no later than 5:00 p.m. on Monday, December 16, 2019, explaining his failure to appear at the prehearing conference on December 9, 2019. Student should further address why this matter should not be dismissed for the failure to appear and diligently proceed with this case.

Failure of Student to submit a declaration may result in a dismissal of this matter and other consequences. Sacramento City may respond to the OSC by Tuesday, December 17, 2019, but is not required to respond.

As a result of the delay caused by the failure to appear, this matter is continued. The prehearing conference is continued to December 20, 2019, at 3 PM.

The current due process hearing dates are continued to January 7, 2020, at 9:30 AM, and January 8, and 9, 2020, at 9:30 AM, and continuing day to day, as needed at the discretion of the Administrative Law Judge.

The parties shall immediately notify all potential witnesses of the hearing dates, and shall subpoena witnesses if necessary, to ensure that the witnesses will be available to testify.

A witness will not be regarded as unavailable for purposes of showing "good cause" to continue the hearing if the witness is not properly notified of the hearing date or properly subpoenaed, as applicable.

IT IS SO ORDERED.

DATED: December 9, 2019

DocuSigned by:
Cynthia Fritz
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Cynthia Fritz
Administrative Law Judge
Office of Administrative Hearings