BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

ASPIRE PUBLIC SCHOOLS.

OAH CASE NUMBER 2023020691

REVISED ORDER FINALIZING ISSUES FOR HEARING

JUNE 6, 2023

On May 5, 2023, Administrative Law Judge Clifford H. Woosley, Office of Administrative Hearings, held a prehearing conference by videoconference. The Administrative Law Judge is called an ALJ. The Office of Administrative Hearings is called OAH. The prehearing conference is called a PHC.

ISSUES AND PROPOSED RESOLUTIONS

On May 15, 2023, subsequent to the prehearing conference and the issuance of the order following the prehearing conference, Student filed a notice of removed issues and a revised statement of issues. Using the issues as listed and ordered by the ALJ in the order following prehearing conference, Student removed Issues Nos. 1, 2, 3, 4, 5a, 5d, 5e, 6, 7a, 7c, 7d, 7e, 7k, 8a, 8d, 8e, 9c, 9d, 9e, 9f, 9h, 10, 11c, 11i, 12d, 12g, and 13.

Student kept the original numbering from the first amended complaint, and retained and/or revised Issues 5b, 5c, 5f, 7b, 7f, 7g, 7h, 7i, 7j, 8b, 8c, 8f, 9a, 9b, 9g, 11a, 11b, 11d, 11e, 11f, 11g, 11h, 12a, 12b, 12c, 12e, and 12f.

The issues have been renumbered and deleted portions of sub issues have been retained and renumbered by the ALJ per Student's notice. On May 24, 2023, Student's attorney narrowed the newly renumbered Issue 5 to define the period at issue as the 2022-2023 regular school year from start to March 14, 2023, the date of filing of Student's first amended complaint.

A free appropriate public education is called a FAPE and an individualized education program is called an IEP.

The issues following Student's removal and revision of the issues listed in the order following prehearing conference, and as discussed with the parties on the first day of hearing, along with the limitation of the period at issue in the newly numbered Issue 5, are:

ISSUES

1. Did Aspire deny Student a FAPE in the development of the April/May 2021 and June 2021 IEPs by:
    a. Not including adequate statements of measurable annual goals in all areas of need?
    b. Not considering Parent's concerns in the development of the IEP?
    c. Predetermining its offer of placement and services?
2. Did Aspire deny Student a FAPE, for the 2021-2022 regular school year and extended school year, by failing to:
    a. Implement consented-to portions of the most recent agreed-to IEP?

b. Offer and implement appropriate specialized academic instruction for in-person instruction?

c. Offer appropriate related services in occupational therapy, language and speech, counseling, behavior support, and social skills?

d. Offer and implement positive behavioral interventions and supports, behavior intervention plan, and behavior support plan to address behaviors that interfered with Student's learning?

e. Offer and implement one-to-one aide support, with supervision by a board-certified behavioral analyst?

f. Offer and implement inclusion specialist services?

3. Did Aspire deny Student a FAPE in the development of the September 2021 and October 2021 IEPs by:

   a. Not including adequate statements of measurable annual goals in all areas of need?

   b. Not considering Parent's concerns in the development of the IEP?

   c. Predetermining its offer of placement and services?

4. Did Aspire deny Student a FAPE in the development of the June 2022 IEP by:

   a. Failing to timely complete Student's annual review?

   b. Not including adequate statements of measurable annual goals in all areas of need?

   c. Predetermining its offer of placement and services?

5. Did Aspire deny Student a FAPE, for the 2022-2023 regular school year through March 14, 2023, by failing to:

   a. Have an IEP in place by the start of the school year?

   b. Implement consented-to portions of the IEP?

c. Offer and implement appropriate specialized academic instruction for in-person instruction?
d. Offer appropriate related services in occupational therapy, language and speech, counseling, behavior support, and social skills?
e. Offer and implement positive behavioral interventions and supports, behavior intervention plan, and behavior support plan to address behaviors that interfered with Student's learning?
f. Offer and implement one-to-one aide support, with supervision by a board-certified behavioral analyst?
g. Offer and implement inclusion specialist services?

6. Did Aspire deny Student a FAPE in the development of the September 2022 reconvened IEP and October 2022 amendment IEP by:
    a. Failing to consider the results of the independent educational evaluations in decisions regarding the provision of FAPE?
    b. Not considering Parent's concerns in the development of the IEP?
    c. Not including adequate statements of measurable annual goals in all areas of need?
    d. Failing to revise the IEPs to address learning loss during school closures in the 2020-2021 school year?
    e. Predetermining its offer of placement and services?

PROPOSED RESOLUTIONS

The resolutions requested by Student include: compensatory education and relates services; reimbursements; and prospective FAPE placement in general education, one-to-one aide support, inclusion specialist consultation, intensive individualized

related services, one-to-one specialized academic instruction, and extended school year in an intervention program.

Aspire filed its response to Student's amended complaint on April 5, 2023. (*M.C. v. Antelope Valley Union High School Dist.* (9th Cir. 2017) 858 F.3d 1189, 1199-1200.)

IT IS SO ORDERED.

Ted Mann

Ted Mann
Administrative Law Judge
Office of Administrative Hearings