

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES COUNTY OFFICE OF
EDUCATION; ANTELOPE VALLEY
UNION HIGH SCHOOL DISTRICT

OAH CASE NO. 2013090256

ORDER TO SHOW CAUSE RE:
DISMISSAL FOR FAILURE TO
APPEAR AT PRE-HEARING
CONFERENCE AND SETTING
ORDER TO SHOW CAUSE HEARING

On September 9, 2013, counsel for Parent on Student's behalf filed a request for due process hearing (complaint) naming the Los Angeles County Office of Education (LACOE) and Antelope Valley Union High School District (District). On October 8, 2013, Student filed an amended complaint, at which time a new scheduling order was issued. On November 18, 2013, OAH granted the parties' joint request for a continuance of the due process hearing. On February 3, 2014, a pre-hearing conference was held and Student was granted leave to file a second amended complaint. All dates were vacated and a new scheduling order was issued and served on all parties. The matter was set for a prehearing conference on March 21, 2014, and for hearing on March 27, 2014. The parties timely filed prehearing conference statements.

On March 21, 2014, the undersigned Administrative Law Judge (ALJ) attempted to hold a telephonic prehearing conference. Counsel for LACOE and District were available and ready to proceed. The ALJ was unable to reach Student's counsel, Tania Whiteleather. The ALJ called Ms. Whiteleather's office, spoke to her assistant, and was informed that Ms. Whiteleather was available on her cell phone. The ALJ called the cell phone, received a recorded message, and left a message advising that the PHC was ready to begin. The ALJ called Ms. Whiteleather's cell phone three minutes later and received a recording. The ALJ then called the assistant and who attempted to reach Ms. Whiteleather. On the third attempt on the cell number, the ALJ left a detailed message advising that an order to show cause (OSC) would issue and a telephonic hearing would be held on March 24, 2014 at 10:00 a.m. The ALJ then notified Ms. Whiteleather's assistant of the OSC. The ALJ also notified counsel for LACOE and District of the telephonic OSC hearing.

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).)

Here, Student has not diligently pursued this matter by failing to appear at the pre-hearing conference. Given the lengthy delays in this matter, Student is ordered to show cause at a telephonic hearing set for **March 24, 2014 at 10:00 a.m.** as to why this matter should not be dismissed for lack of prosecution. Counsel for all parties shall appear at the OSC hearing. If Student demonstrates that this matter should not be dismissed, the ALJ will hold a pre-hearing conference immediately following the OSC hearing.

IT IS SO ORDERED.

DATE: March 21, 2014

/s/

ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings