

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
22 EDC 00083

■ by and through her parent ■ Petitioner, v. Magellan Charter School Respondent.	FINAL DECISION BY ENTRY OF OFFER OF JUDGMENT
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THIS MATTER is before this Tribunal for entry of an Order based upon Petitioners' Motion for Entry of Offer of Judgment. In consideration of the Motion and Respondent's Rule 68 Offer of Judgment attached to Petitioners' Motion, the Undersigned enters Judgment against the Respondent in conformity with Respondent's Offer of Judgment as follows:

PROCEDURAL HISTORY

1. On January 7, 2022, Petitioners, ■ by and through her parents, ■ and ■ filed a Petition for a Contested Case Hearing in the above-captioned matter alleging violations against Magellan Charter School of the Individuals with Disabilities Education Improvement Act of 2004, 20 U.S.C. §§ 1400 *et seq.* ("IDEA") and N.C. Gen. Stat. §§ 115C-109.6 *et seq.*

2. Respondent was served with the Petition on January 12, 2022.

3. On March 14, 2022, the Undersigned issued a Consent Amended Scheduling Order calendaring the hearing to begin on April 18, 2022.

4. On April 4, 2022, Respondent filed a motion to continue the hearing.

5. On April 5, 2022, Petitioner ■ voluntarily dismissed her claims without prejudice. The same day, Petitioner ■ moved this Tribunal for an order amending the case caption. The motion was immediately granted.

6. On April 6, 2022, Petitioners filed their Response in Opposition to Respondent's Motion to Continue.

7. On April 7, 2022, the Undersigned denied Respondent's Motion to Continue.

8. On April 7, 2022, Respondent served upon Petitioners' counsel an Offer of Judgment.

9. On April 11, 2022, the Undersigned issued a Second Consent Amended Scheduling Order calendaring the hearing to begin on April 19, 2022.

10. On April 11, 2022, Petitioners notified Respondent's counsel of their acceptance of the Offer of Judgment. Respondent immediately acknowledged receipt of Petitioners' Notice of Acceptance.

11. On April 11, 2022, Petitioners filed the accepted Offer of Judgment.

12. Pursuant to Rule 68(a), the Offer of Judgment is now entered in the record.

FINAL DECISION BY ENTRY OF OFFER OF JUDGMENT

BASED UPON the accepted Offer of Judgment, it is hereby **ORDERED** that the following relief is granted:

1. Respondent will provide the following services to Petitioner, [REDACTED] not to exceed a total cost of \$40,000. In no event is Respondent required to pay more than \$40,000 for the following services:

a. Respondent will contract with an Independent Special Education Consultant ("Consultant"), mutually agreed upon by the Parties, at least through the end of the 2022-23 school year, who will: review educational records and other relevant private records provided to the Consultant by Respondent and [REDACTED]'s parent; conduct a Functional Behavior Assessment; collaborate with [REDACTED]'s private providers, as deemed necessary by the Consultant; provide input on [REDACTED]'s Behavior Intervention Plan ("BIP"); attend and participate in IEP and BIP review meetings for [REDACTED]; consult with and provide additional training to selected school staff; support [REDACTED]'s teachers, related service providers, and aide with confidential observations, fidelity checks, coaching and modeling; provide input to the IEP Team with regard to data review; review and propose revisions to [REDACTED]'s IEP within forty-eight (48) hours of an IEP team meeting, including making recommendations on the need for additional supplemental aids, services, modifications, and accommodations; assist staff with developing progress monitoring processes and documentation; consult on the implementation of [REDACTED]'s IEP; conduct observations and informal assessments of [REDACTED] as the Consultant deems necessary; and meet with [REDACTED]'s teachers, related service providers, and parents as the Consultant deems necessary. Respondent will convene an IEP meeting within ten (10) days of receipt of the evaluation described in Paragraph 1(a).

b. Respondent will communicate with Petitioners via a weekly communication log, through the end of the 2022-23 school year.

c. Respondent will contract with an Independent Speech Language Pathologist, mutually agreed upon by the Parties, to provide one (1) hour of social thinking

sessions weekly either before or after school through the end of the 2022-23 school year and for twelve (12) weeks during the summer of 2022.

2. Respondent will provide training to the administrators, special education teachers, general education teachers, and related service providers at Magellan with regard to social thinking.

3. Respondent shall compensate Petitioners for costs accrued as of the date of this offer, including attorney's fees, in a lump sum not to exceed the amount of \$40,000. In no circumstance shall Respondent pay more than \$40,000 for costs accrued, including attorney's fees.

IT IS FURTHER ORDERED that the April 7, 2022 Offer of Judgment accepted by Petitioners on April 11, 2022 is hereby incorporated into this Final Decision as if attached verbatim.

Petitioners' Motion for Entry of Respondent's Offer of Judgment, pursuant to North Carolina General Statute Section 1A-1, Rule 68, is **GRANTED**.

The Notices of Prehearing Conference for April 12, 2022 and Hearing for April 19-22, 2022 are **VACATED** and this contested case is **DISMISSED WITH PREJUDICE**.

NOTICE OF APPEAL RIGHTS

In accordance with the Individuals with Disabilities Education Act and North Carolina's Education of Children with Disabilities laws, the parties have appeal rights regarding this Final Decision. Unless appealed to State or federal court, the State Board shall enforce the final decision of the Administrative Law Judge.

Any party aggrieved by the findings and decision of an Administrative Law Judge under G.S. 115C-109.6 may institute a civil action in State court within 30 days after receipt of the notice of the decision or in federal court as provided in 20 U.S.C. § 1415. Please notify the Office of Administrative Hearings in writing of any appeal so that the records for this case can be prepared for forwarding to the appropriate court.

IT IS SO ORDERED.

This the 12th day of April, 2022.



Stacey Bice Bawtinheimer
Administrative Law Judge

CERTIFICATE OF SERVICE

The undersigned certifies that, on the date shown below, the Office of Administrative Hearings sent the foregoing document to the persons named below at the addresses shown below, by electronic service as defined in 26 NCAC 03 .0501(4), or by placing a copy thereof, enclosed in a wrapper addressed to the person to be served, into the custody of the North Carolina Mail Service Center who subsequently will place the foregoing document into an official depository of the United States Postal Service.

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This the 12th day of April, 2022.



Jerrod Godwin
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