BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. BONSALL UNIFIED SCHOOL DISTRICT.	OAH Case No. 2016070664 ORDER DENYING MOTION TO ADVANCE HEARING DATES

On July 7, 2016, Parents on behalf of Student filed with the Office of Administrative Hearings a Request for Due Process Hearing (complaint) naming Bonsall Unified School District. On July 20, 2016, OAH issued and served a scheduling order scheduling the due process hearing on August 30, 2016.

On July 22, 2016, Student filed with OAH a motion to advance hearing dates because Bonsall failed to hold a resolution session within 15 days from it receiving notice of Student's complaint.

On July 27, 2016, Bonsall timely filed an opposition to the motion.

APPLICABLE LAW

A school district is required to convene a resolution meeting with a student's parents within 15 days of receiving notice of a filed complaint. (20 U.S.C. § 1415(f)(1)(B)(i)(I); 34 C.F.R. § 300.510(a)(1); Ed. Code, § 56501.5, subd. (a).) If the school district fails to resolve the matter within 30 days of receipt of the complaint, the 45-day timeline to conduct a hearing and issue a decision shall commence. (Ed. Code., § 56501.5, subd. (c).)

When a school district does not hold a timely resolution session, the parent may seek the intervention of a hearing officer to begin the due process timeline. (32 C.F.R. § 300.510(b)(5).)

DISCUSSION

In its opposition, Bonsall states that shortly after receipt of the complaint, its special education director was on vacation and unavailable. The matter was not referred to Bonsall's counsel until July 21, 2016, one day after the issuance and service of the scheduling order by

OAH. Bonsall's counsel filed with OAH and served on Student's counsel a notice of representation.

Student filed her motion on July 22, 2016. The proof of service indicated that the motion was served upon Bonsall's counsel. In the supporting declaration, Student's counsel indicated that she had received no communication from Bonsall regarding scheduling a resolution session.

Thereafter, Bonsall's counsel contacted counsel for Student seeking to schedule a resolution session and requesting that this motion be withdrawn. Student's counsel refused the offer stating that Student's parents had a "huge amount of anxiety about [Student's] school placement" for the upcoming school year. (Declaration of Deborah R.G. Cesario in support of the Opposition, p. 2.) Bonsall's counsel then emailed Student's counsel seeking to schedule a resolution session on either August 5, 2016, the last day of the 30-day resolution period, or August 11, 2015. Student's counsel has not responded.

Student has failed to demonstrate how it is prejudiced by the failure to hold a timely resolution session in light of the offered August 5, 2015, date.

ORDER

1. Student's motion to advance hearing dates is denied.

2. The parties are ordered to attend a resolution session on August 5, 2016, unless the parties jointly agree to waive the resolution process.

DATE: July 28, 2016

/s/
ROBERT HELFAND
Administrative Law Judge
Office of Administrative Hearings