BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. LOS ANGELES UNIFIED SCHOOL DISTRICT AND LOS ANGELES COUNTY OFFICE OF EDUCATION.	OAH Case No. 2016070633 ORDER GRANTING RESPONDENTS' JOINT MOTION TO EXTEND PROCEDURAL TIMELINES

On July 6, 2016, Student filed with the Office of Administrative Hearings a due process hearing request (complaint), naming Los Angeles Unified School District (District) and Los Angeles County Office of Education (LACOE).

On August 5, 2016, District and LACOE filed a joint motion to extend procedural timelines due to Student's parent's failure to participate in a mandatory resolution session. On August 9, 2016, Student filed an opposition.

APPLICABLE LAW

A local educational agency is required to convene a resolution meeting with the parents and the relevant members of the individualized education program team within 15 days of receiving notice of the Student's complaint. (20 U.S.C. § 1415(f)(1)(B)(i)(I);[1] 34 C.F.R. § 300.510(a)(1) (2006).[2]) The resolution session need not be held if it is waived by both parties in writing or the parties agree to use mediation. (§ 1415(f)(1)(B)(i)(IV); 34 C.F.R. § 300.510(a)(3).) There are no provisions of law that allow a parent or a local education agency to unilaterally waive the resolution meeting. (71 Fed. Reg. 47602, No. 156 (Aug. 14, 2006.)

If the parents do not participate in the resolution session, and it has not been otherwise waived by the parties, a due process hearing shall not take place until a resolution session is held. (34 C.F.R. § 300.510(b)(3).) If the local education agency is unable to obtain the participation of the parent in the resolution meeting after reasonable efforts have been made and documented, the local educational agency may, at the conclusion of the 30-day period, request that a hearing officer dismiss the complaint. (34 C.F.R. § 300.510(b)(4).)

[1] All statutory citations are to title 20 United States Code unless otherwise indicated.

[2] All subsequent references to the Code of Federal Regulations are to the 2006 version.

DISCUSSION

The Respondents' joint motion, supported by sworn declarations, indicates that Parent refused to participate in a scheduled resolution session because District included an agency representative fluent in Spanish, rather than an independent interpreter, to enable Parent to participate in the resolution session. Student's opposition asserts that a local educational agency must provide an independent Spanish language interpreter to ensure accurate interpretation.

Parent is required to participate in a resolution session before a due process hearing may be commenced, and OAH has discretion to dismiss the matter if Parent refuses to participate in a resolution session and the local educational agency provides appropriate documentation supporting its motion to dismiss. Here, Respondents request that the procedural deadlines be extended to allow parent another opportunity to participate in a resolution session.

Student cites no law or regulation requiring Respondents to provide an independent interpreter at informal resolution sessions. Even as to IEP team meetings, the regulations implementing the IDEA simply require that the public agency take whatever action is necessary to ensure that the parent understands the proceedings of the IEP team meeting, "including arranging for an interpreter for parents...whose native language is other than English." (34 C.F.R. § 300.322(e).) This requirement is met by District's inclusion of an employee fluent in Spanish. If Parent is concerned that District's employee is not providing Spanish language interpretation that is accurate or correctly nuanced at the resolution session, Parent may bring her own Spanish language interpreter to supplement the interpretation provided by District.

ORDER

1. Respondents' joint motion to extend procedural timelines is granted.

2. All previously set dates in this matter are vacated.

3. The parties are ordered to participate in a resolution session within 15 days from the date of this order.

4. The timelines for hearing shall recommence on August 19, 2016.

DATE: August 19, 2016

DocuSigned by:
Alexa Hohensee
A7D463FF094544B...

ALEXA J. HOHENSEE
Administrative Law Judge
Office of Administrative Hearings