BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

ADELANTO ELEMENTARY SCHOOL DISTRICT, DESERT MOUNTAIN SPECIAL EDUCATION LOCAL PLAN AREA, AND DESERT MOUNTAIN CHILDREN'S CENTER.

OAH CASE NUMBER 2025060065

ORDER DENYING MOTION TO DISMISS WITHOUT PREJUDICE AND DIRECTING PARTIES TO CONDUCT A RESOLUTION SESSION

OCTOBER 31, 2025

On October 24, 2025, the Respondents filed a motion to dismiss Student's second amended complaint in its entirety for failing to attend the mandatory resolution session. The Respondents assert that they scheduled a resolution session for October 13, 2025, and Parent did not attend. The Respondents also assert that they continued their attempts to have Parent attend, but she ultimately did not.

On October 28, 2025, Student responded to the Respondent's motion. Through his motion, Student concedes that he has not participated in the resolution session, and raises various defenses to his nonparticipation. Additionally, the Respondents had explained to Parent, who is self-represented, the requirement to participate in the resolution session if it is not waived by all parties. In response, Student preemptively filed motions on October 17, 2025, and October 22, 2025, confirming Parent did not agree to waive the resolution session and to "[o]rder the immediate and definite suspension of the Resolution Meeting…" OAH also addresses those motions here.

APPLICABLE LAW

A local educational agency is required to meet with the parents and Student's relevant Individualized Education Program team members within 15 days of receiving Student's complaint. (20 U.S.C. § 1415(f)(1)(B)(i)(I); 34 C.F.R. § 300.510(a)(1) (2006); Ed. Code, § 56501.5.) The meeting called a resolution session, can be waived in writing by both parties or if they agree to use mediation. (34 C.F.R. § 300.510(a)(3).) If the parents do not attend the resolution session, and it was not waived, there is no due process hearing until the resolution session waived or held. (34 C.F.R. § 300.510(b)(3).) The respondent can request the case be dismissed after the 30-day period, if it documented reasonable efforts to hold the resolution session and the parents did not attend. (34 C.F.R. §300.510(b)(4).)

DISCUSSION

The Respondents' motion indicates that Student did not attend the resolution session scheduled for October 13, 2025. Student concedes that he did not participate. The Respondents' motion and supporting evidence established they made the required efforts to have Parent participate.

Parent is required to participate in a resolution session before a due process hearing may be commenced. There was no written agreement to waive the resolution or proceed to mediation in lieu of the resolution session. The undersigned considered the arguments Student raised in his October 17, 22, and 28, 2025, filings, and rejected them. Student failed to provide a valid excuse for Parent's failure to participate.

Respondents' motion to dismiss is denied without prejudice. A resolution session must be held no later than November 18, 2025, by 12:00 PM noon. If Parent refuses to participate in the resolution session, the Respondents may renew their motion to dismiss.

ORDER

1. The Respondents' motion to dismiss is denied without prejudice.
2. The parties are ordered to hold a resolution session no later than November 18, 2025, by 12:00 PM noon.
3. If Parent refuses to participate in the resolution session, the Respondents may renew their motion to dismiss.

IT IS SO ORDERED

Ashok Pathi

Ashok Pathi
Administrative Law Judge
Office of Administrative Hearings