BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

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| In the Matter of:<br><br>PARENT ON BEHALF OF STUDENT,<br><br>v.<br><br>OAKLAND UNIFIED SCHOOL DISTRICT. | OAH Case No. 2015120810<br><br>ORDER GRANTING REQUEST TO ADVANCE DUE PROCESS TIMELINE |

On December 29, 2015, Student filed a request to advance the mediation and hearing dates in this matter. On December 30, 2015, District filed an opposition. On December 30, 2015, Student filed a reply.

## APPLICABLE LAW

A local educational agency is required to convene a 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); 34 C.F.R. § 300.510(a)(1) (2006).) The resolution session need not be held if it is waived by both parties in writing or the parties agree to use mediation. (34 C.F.R. § 300.510(a)(3).) 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. (*Id.* at § 300.510(b)(3).) If the parties agree to waive the resolution session, the 45-day timeline for a due process hearing begins the day after the waiver. (*Id*. at § 300.510(c)(1).)

## DISCUSSION AND ORDER

Student seeks to advance the mediation and hearing dates in light of the parties' written waiver of the resolution process. In Student's reply, the sworn declaration of Parent identifies and authenticates copies of email correspondence documenting the parties' written agreement to waive the resolution process as of December 29, 2015.[1] Accordingly, the 45-day period in which to conduct the hearing begins to run on December 30, 2015.

[1] Parent's emails in response to District's inquiry did not include a waiver until Parent's December 28, 2015 email, which unequivocally stated that Parent waived the resolution process "as of December 29, 2015."

Student also requests that 10 days be set for the hearing. This type of request is appropriately handled at the prehearing conference. Accordingly, Student's request that 10 days be reserved for the hearing is denied, without prejudice to Student raising this request in his prehearing conference statement and at the prehearing conference.

ORDER

1. Student's motion to advance the due process hearing timeline is granted.

2. All presently scheduled mediation, prehearing conference and hearing dates are vacated.

3. OAH shall issue a scheduling order that sets mediation, prehearing conference and hearing dates based on a decision timeline that commences on December 30, 2015.

IT IS SO ORDERED.

DATE: December 31, 2015

**/s/**
ALEXA J. HOHENSEE
Administrative Law Judge
Office of Administrative Hearings