BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

REDLANDS UNIFIED SCHOOL DISTRICT AND SAN BERNARDINO COUNTY SUPERINTENDENT OF SCHOOLS.

OAH CASE NUMBER 2022060161

ORDER DENYING MOTION TO EXTEND PROCEDURAL TIMELINES RESOLUTION SESSION

JUNE 29, 2022

On June 6, 2022, Student filed a due process hearing request with the Office of Administrative Hearings, called OAH. Student named Redlands Unified School District and San Bernardino County Superintendent of Schools as respondents. This Order refers to Redlands and the Superintendent together as "Respondents."

On June 17, 2022, Respondents filed a motion to extend timelines for Student's failure to participate in a mandatory resolution session. Student did not respond to the motion.

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). The meeting is called a resolution session. The parties can agree to waive the resolution session in writing, or agree to proceed to mediation in lieu of the resolution session. (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 is waived or held. (34 C.F.R. § 300.510(b)(3).) The respondent can request the case be dismissed after a 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).)

The federal regulations regarding resolution meetings expressly recognize that an attorney for the parent is not the same person as the parent, requiring that a lead educational agency convene a meeting "with the parent," but not include an attorney for the agency "unless the parent is accompanied by an attorney." (34 C.F.R. § 300.510(a)(ii).) For both the IDEA and California special education law, the term "parent" expressly includes biological and adoptive parents, guardians, court appointed surrogates and persons acting as parents or holders of educational rights by court decree or order. (34 C.F.R. § 300.30; Ed. Code, § 56028). These definitions of "parent" do not include, or even reference, attorneys representing their clients.

DISCUSSION

Respondents represented the unavailability of a non-party SELPA director, the district representative, as well as both parties' attorneys, and yet none of these individuals are required for a resolution session. Respondents provided no authority to

support their request to extend the resolution period under these circumstances, which is, in its essence, an attempt at a unilateral continuance.

Appropriate remedy authorized under the law regarding the resolution period, absent mutual waiver, would be dismissal after 30 days based upon a showing of parent refusal to participate in the resolution session. Respondents motion is premature, in that the 30-day resolution period has not elapsed. Nothing in this Order prevents Respondents from seeking dismissal once the 30-day period has elapsed if the resolution is not mutually waived.

ORDER

Respondents' motion to extend procedural timelines is denied.

IT IS SO ORDERED.

Claire Yazigi

Claire Yazigi
Administrative Law Judge
Office of Administrative Hearings