BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

CORONA-NORCO UNIFIED SCHOOL DISTRICT AND RIVER SPRINGS CHARTER SCHOOL.

OAH CASE NUMBER 2023020866

ORDER DENYING MOTION TO DISMISS FOR FAILURE TO PARTICIPATE IN A RESOLUTION SESSION AND RESETTING TIMELINES

APRIL 26, 2023

On February 24, 2023, Parent, on behalf of Student, filed a due process hearing request with the Office of Administrative Hearings, called OAH, naming Corona-Norco Unified School District and River Springs Charter School as respondents.

On April 12, 2023, River Springs filed a motion to dismiss the case for Student's failure to participate in a mandatory resolution session with the charter school. Student

opposed the motion on April 17, 2023 and River Springs filed a reply to Student's opposition on April 18, 2023.

APPLICABLE LAW

Within 15 days of receiving notice of Parent's due process complaint, and prior to the initiation of a due process hearing, a local educational agency must convene a meeting with the Parent and the relevant members of the IEP team who have specific knowledge of the facts identified in the due process complaint. This group must include a representative of the public agency who had decision making authority for the educational agency. The group may not include an attorney unless Parent is accompanied by an attorney. (20 U.S.C. § 1415(f)(1)(B)(i)(I); 34 Code Fed. Regs. § 300.510(a)(1) (2006).)

The meeting called a resolution session, can be waived in writing by both parties. Parties can agree to use mediation instead of a resolution session. (34 C.F.R. § 300.510(a)(3).) If the parents do not attend the resolution session, and it was not waived, the failure of the educational agency to convene a resolution session or the failure of Parent to participate or the resolution session will delay the timeline for the resolution meeting and due process hearing. (34 C.F.R. § 300.510(b)(3) and (5).) If the educational agency is unable to secure the participation of Parent in a resolution session, the educational agency can request the case be dismissed after the 30-day period. Dismissal is only available with a showing of documented, reasonable efforts made to secure parental participation. (34 C.F.R. §300.510(b)(4).)

DISCUSSION

River Springs Charter asserts it made reasonable efforts to convene a resolution session and Parents would not participate. Student argues that the March 24, 2023

meeting constituted a resolution session. This was neither party's finest hour. However, ultimately, the question is whether River Springs established it made reasonable efforts to obtain parental participation in the resolution. River Springs did not establish reasonable efforts to secure Parent's resolution session participation.

River Springs states Parents cooperated with a last-minute change in the resolution session date from March 10, 2023 to March 24, 2023 that resulted from River Springs' "scheduling oversight." Parent attended the March 24, 2023 conference with James Peters, from Student's attorney's office.

At the resolution session, when asked, Mr. Peters informed River Springs' Program Coordinator, Courtney Beers, that he was not an attorney and was not there on behalf of Student's law firm but was there to support Parent. Mr. Peters does not deny offering flippant and evasive responses to further probing of his position with Student's attorney's law firm. Nor does Peters deny that, when Beers asked Parent for a settlement proposal, Peters told Ms. Beers the complaint stated a detailed settlement proposal.

River Springs admits that Ms. Beers called her legal counsel, James Sanft, during the resolution session regarding Mr. Peters' participation, and that during this call, Peters and Parent were left to wait on hold for the phone conference to continue. Sanft, admits he joined the resolution session call with Ms. Beers and made further inquiries as to Mr. Peters' role. Sanft acknowledges Mr. Peters repeated he was not an attorney and but was there as a non-attorney assisting Parent. Sanft also states the conversation did not end there and he proceeded to inform Peters, that Peters he had an obligation to disclose his intention to attend the resolution session in advance due to his connection with Student's counsel's office. River Springs acknowledges stating it asked Parent and

Peters to wait while Sanft spoke to Ms. Beers about the resolution session prior to it proceeding.

Peters objected to he, and Parent, being kept waiting while Sanft spoke to Beers. Peters asked Parent if she wanted to leave the meeting, and Parent said yes. According to River Springs, the resolution session call was terminated less than 15 minutes after it started, and contrary to the wishes of River Springs.

River Springs admits it sent an email to Student's counsel's office complaining about Mr. Peter's presence at the resolution session without notice to River Springs' counsel; and complaining about the summary termination of the resolution session. River Springs thereafter contacted Student's attorney's office and offered one more resolution session on the next business day, Monday March 27, 2023 at 11:30 am. According to River Springs, Student did not respond to the offered date and time. This motion followed.

Student asserts that the questioning of his Parent's advocate at the resolution session was inappropriate, caused significant delay, and made Parent and the advocate feel unjustly accused of impropriety. Student asserts the district was not participating in resolution.

River Springs offers no legal authority for the proposition that Parent was required to disclose her intention to have an advocate accompany her to a resolution session. Nor does River Springs cite authority stating Student was not allowed to have an advocate accompany her to the resolution session.

The only mention of representation related to a resolution session in the Individuals with Disabilities' Education Act or IDEA, is that an educational agency is not allowed to have an attorney unless Parent attends with an attorney. Peters is not an

attorney. No basis for extensively probing Peters' title or job duties that was necessary for moving forward with resolution has been established. Furthermore, the offer of a single additional opportunity for resolution session, preceded by further argument asserting the need to disclose an advocate's attendance in advance of a resolution session, does not constitute a reasonable effort to secure Parental participation. River Springs' motion to dismiss the complaint on the grounds that Parents failed to participate in the resolution session is denied.

Student fails to explain why he did not respond to River Springs' attempt to reschedule the resolution session. Parents are obligated to participate in a resolution session.

Based on the declarations of Sanft, Beers, and Peters, the discussion that took place on March 24, 2023, did not constitute a resolution session. The timeline to complete the resolution is extended.

ORDER

1. River Springs Charter School's motion to dismiss is denied
2. The parties are ordered to hold a resolution session within 30 days of the date of this order.
3. All previously set dates in this matter are vacated.
4. A new scheduling order will be issued.

IT IS SO ORDERED

Penelope S. Pahl

Penelope S. Pahl
Administrative Law Judge
Office of Administrative Hearings