BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2018080844
v.	ORDER GRANTING MOTION TO START DUE PROCESS HEARING TIMELINE AND ADVANCING DATES FOR PREHEARING CONFERENCE AND HEARING
OXNARD SCHOOL DISTRICT.	

On August 17, 2018, Student filed with the Office of Administrative Hearings a due process hearing request (complaint) against Oxnard School District.

On September 4, 2018, Student filed a motion to commence the due process hearing timeline contending that Oxnard failed to hold a resolution session. OAH has received no response from Oxnard.

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]; Ed. Code § 56501.5, subd. (a).) 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); Ed. Code § 56501.5, subd. (b).) 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.)

The 45-day timeline for the due process hearing starts the day after a resolution meeting, unless the parties agree in writing to waive the resolution meeting. (34 C.F.R. § 300.513(b) & (c); Ed. Code § 56501.5, subd. (d)(1).) If the local education agency fails to hold the resolution meeting within 15 days of receiving notice of the due process complaint, or fails to participate in the resolution meeting, the parent may seek the intervention of a

[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.

hearing officer to begin the due process hearing timeline. (34 C.F.R. § 300.510(b)(5); Ed. Code § 56501.5, subd. (e)(2).)

DISCUSSION

Student's motion, supported by the sworn declaration of Janeen Steel, and filed more than 15 days after Student filed his complaint, establishes that Oxnard did not convene a resolution session within 15 days of the filing of the complaint as required by Education Code section 56501.5. Oxnard did not respond to Student's motion.

As discussed above, the parent may seek the intervention of a hearing officer to begin the due process hearing timeline if the local education agency fails to hold the resolution meeting within 15 days of receiving notice of the due process complaint or fails to participate in the resolution meeting. (34 C.F.R. § 300.510(b)(5); Ed. Code § 56501.5, subd. (e)(2).) Student has established this through Janeeen Steel's declaration. Accordingly, the 45 day timeline shall commence as of the date of this order.

ORDER

1. Student's motion to begin the due process hearing timeline is granted. The timeline shall commence as of the date of this order.

2. All previously scheduled dates are vacated.

3. The parties are ordered to attend a telephonic prehearing conference on September 24, 2018, at 3:00 p.m. Prehearing conference statements and any motions must be filed three business days prior to the PHC, and are due on September 19, 2018.

4. The due process hearing shall begin on October 4, 2018, at 9:30 a.m.

IT IS SO ORDERED.

DATE: September 14, 2018

DocuSigned by:
Rebecca Freie
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REBECCA FREIE
Administrative Law Judge
Office of Administrative Hearings