BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. RIVERSIDE UNIFIED SCHOOL DISTRICT.	OAH Case No. 2017020292 ORDER GRANTING DISTRICT'S MOTION TO EXTEND PROCEDURAL TIMELINES

On February 7, 2017, Student filed with the Office of Administrative Hearings a request for due process hearing (complaint), naming Riverside Unified School District.

On March 7, 2017, District filed a motion to extend procedural timelines due to Student's parent's non-participation in a mandatory resolution session. OAH has received no response from Student.

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).[1]) 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. (34 C.F.R. § 300.510(b)(3).) If the Local Education Agency is unable to obtain the participation of the parent in the resolution meeting after reasonable efforts have been made and documented, the LEA may, at the conclusion of the 30-day period, request that a hearing officer dismiss the complaint. (34 C.F.R. §300.510(b)(4).)

DISCUSSION

District's motion is supported by the sworn declaration of Charity Plaxton-Hennings, and indicates Student's parent did not attend the resolution session scheduled for February 21, 2017 at 9:00 a.m.

[1] All subsequent references to the Code of Federal Regulations are to the 2006 version.

District filed its motion after the end of the 30-day resolution period, which dates from the filing of Student's complaint.

Student's parent is required to participate in a resolution session before a due process hearing may be commenced, and OAH has discretion to dismiss the matter if the parent refuses to participate in a resolution session and the district provides appropriate documentation supporting its motion to dismiss.

There has been no agreement to waive the resolution or proceed to mediation in lieu of the resolution session in this case. Moreover, District has established that it made reasonable efforts to obtain Student's parent's participation in a resolution session prior to filing its motion to extend the due process hearing timeline. Student has failed respond to District's motion to extend the timeline and has not provided OAH with an adequate reason for failing to participate in a resolution session within 30 days. Therefore, District's motion to extend procedural timelines is granted. A resolution session shall be held within 15 days from the date of this order.

ORDER

1. District's motion to motion to extend procedural timelines is granted.

2. All previously set dates in this matter are vacated.

3. The parties are ordered to participate in a resolution session within 15 days from the date of this order.

4. The timelines for hearing established pursuant to title 20 United States Code section 1415(f)(1)(B) shall recommence on March 20, 2017.

5. OAH shall issue a new Scheduling Order Setting Due Process Hearing and Mediation.

DATE: March 20, 2017

DocuSigned by:
Judith Pasewark
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JUDITH PASEWARK
Administrative Law Judge
Office of Administrative Hearings