

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENT ON BEHALF OF STUDENT,

v.

CORONA-NORCO UNIFIED SCHOOL DISTRICT.
OAH CASE NUMBER 2020020889

ORDER GRANTING MOTION TO DISMISS

JULY 15, 2020

On February 21, 2020, Student filed a due process hearing request with the Office of Administrative Hearings, called OAH. Student named Corona-Norco Unified School District as respondent.

On July 6, 2020, Corona-Norco filed a motion to dismiss petitioner's complaint failure to participate in a mandatory resolution session. Corona-Norco argued that Student did not comply with the Order issued by OAH on June 2, 2020 which required the parties to participate in a resolution session within 30 days or jointly agree to waive the resolution session. Student did not respond to the motion to dismiss.

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 called a resolution session, can be waived in writing by both parties or if they agree to use mediation. (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 waived or held. (34 C.F.R. § 300.510(b)(3).) The respondent can request the case be dismissed after the 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).)

DISCUSSION

Corona-Norco's motion established that it sent correspondence to Parent via U.S. mail and email on June 5, 2020 explaining that OAH ordered the parties to participate in a resolution session on or before July 2, 2020. Corona-Norco proposed two dates for the resolution session, June 26, 2020 and June 30, 2020 and asked Parent to provide alternative dates prior to July 2, 2020 if Parent was not available on the dates proposed. A pre-filled letter was attached to Corona-Norco's letter so Parent could easily respond with the date he preferred.

Parent responded to Corona-Norco's letter with an email on June 11, 2020 inquiring about the substitution of attorney that was discussed in the June 5, 2020 correspondence. Corona-Norco responded to Student's question on the same date and requested Parent respond to the dates proposed for the resolution session. Parent sent correspondence to Corona-Norco dated June 12, 2020 and requested that certain

Corona-Norco staff attend the dispute resolution meeting. Student filed the same correspondence with OAH on June 16, 2020. OAH issued a Notice of No Action because it was not a motion and did not request OAH to take any action in the matter.

On June 19, 2020 Corona-Norco sent Student a letter in response to the June 12, 2020 correspondence and attempted to schedule a resolution session. A pre-filled letter was attached to this correspondence to allow Student to select a date for the resolution session. Corona-Norco left voicemails for Parent on June 25 and June 26, 2020 attempting to schedule a resolution session. Corona-Norco sent Student a letter on June 26, 2020 via email and U.S. mail asking if Parent would participate in the resolution session. A final voicemail was left for Parent on June 29, 2020 asking to schedule a resolution session. Parent did not participate in a resolution session despite Corona-Norco's multiple attempts to secure his participation.

Parent is required to participate in a resolution session before a due process hearing may be commenced. There was no written agreement to waive the resolution or proceed to mediation in lieu of the resolution session. Corona-Norco established that it made reasonable efforts to obtain parental participation before filing its second motion to dismiss. Therefore, Corona-Norco's motion to dismiss is granted.

ORDER

Corona-Norco's motion to dismiss is granted, and the matter is dismissed.

Marlo Nisperos
Administrative Law Judge
Office of Administrative Hearings