

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

DAVIS JOINT UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2013080623

ORDER DENYING REQUEST TO
MOVE MEDIATION DATE

On August 16, 2013, Student filed a request for a due process hearing (complaint) with the Office of Administrative Hearings (OAH). OAH set the matter for mediation on September 19, 2013. However, the parties have now filed a joint request to advance the mediation to September 10, 2013.

When a student files a request for due process, a local educational agency (LEA) is required to convene a meeting with the parents and the relevant members of the Individualized Education Program (IEP) team (resolution session) 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); Ed. Code § 56501.5.) A complaint cannot proceed to hearing if the parties have not had an opportunity to resolve the matter in a resolution session. (Ed. Code § 56501.5, subd. (c).) The resolution session need not be held if it is waived by both parties in writing or the parties agree to use mediation in lieu of a resolution session. (Ed. Code § 56501.5, subd. (b).) The 45 day timeline for completing a due process hearing and issuance of a Decision does not begin until the 30 day resolution period has ended. (Ed. Code § 56501.5, subd. (d)(3).)

The current date set for mediation is September 19, 2013. The requested mediation date of September 10, 2013, falls within the 30 day resolution period. There is no evidence presented to OAH that the parties have agreed in writing to use mediation in lieu of a resolution session. Accordingly, the request to change the mediation date to September 10, 2013, is denied without prejudice. All hearing dates and timelines shall proceed as calendared.

IT IS SO ORDERED.

Dated: September 4, 2013

/s/

REBECCA FREIE
Administrative Law Judge
Office of Administrative Hearings

