

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2014060932

ORDER GRANTING DISTRICT'S
MOTION TO RESET TIMELINES FOR
FAILURE TO PARTICIPATE IN
RESOLUTION SESSION

On June 16, 2014, Parents on Student's behalf filed with the Office of Administrative Hearings (OAH) a due process hearing request (complaint) naming Los Angeles Unified School District (student/district) as the respondent. On July 11, 2014, District filed a motion to reset the timeliness in the matter because Parents did not participate in a resolution session or agree in writing to waive the resolution session. Student did not oppose the motion.

APPLICABLE LAW

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 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).) 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 LEA 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 a declaration under penalty of perjury that credibly establishes District's efforts to hold a resolution session with Parents on a date convenient to them. District sent a letter dated June 25, 2014 to Parents' attorney in an attempt to schedule the resolution session, or alternatively offering to waive the resolution session and proceed directly to mediation if Parents agreed to waive the timelines which required due process hearing decisions to be rendered within 45 days after the end of the resolution session. Neither Parents nor their attorney responded to the letter. On June 27, 2014, District sent another letter regarding the resolution session, which District tentatively set for July 1, 2014.

Parents did not respond to District's second letter and did not appear on July 1, 2014. From that time to the time District filed this motion, Parents did not attempt to reschedule the resolution session or agree in writing to waive a resolution session. District remained willing to work with Parents to schedule a mutually agreeable date for the resolution session.

Although District filed its motion a few days before the end of the 30-day resolution period, which dates from the filing of Student's complaint, the 30-day period has now expired. 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.

Here, District is only seeking to reset the hearing timelines in order to hold a mandatory resolution session. 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 dismiss, and it documented those reasonable efforts in its motion to reset timelines. Student has failed respond to District's motion. Therefore, District's motion to reset the timelines is granted. If Student fails to participate in a resolution session within the 30 days following this order, District may file a motion seeking a dismissal of Student's complaint, making reference to this Order.

ORDER

1. District's motion to reset timelines is granted.
2. All previously scheduled dates are vacated.
3. The parties are ordered to participate in a resolution session within 30 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 the date of this Order and the Office of Administrative Hearings shall issue a new scheduling order.

DATE: July 18, 2014

/s/

ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings