

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. 2011040874

ORDER GRANTING MOTION TO
EXTEND PROCEDURAL TIMELINES

On July 18, 2014, attorney Seymour Amster, on behalf of Student, filed with the Office of Administrative Hearings a due process hearing request (complaint) against the Los Angeles Unified School District.

On August 1, 2014, attorney Patrick J. Balucan filed, on behalf of District, a motion to extend procedural timelines due to 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 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).)

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

DISCUSSION

District's motion, supported by sworn declaration of Susan Talesnick, District Due Process Specialist, indicates that Student did not attend the resolution session scheduled for July 28, 2014. On July 22 and 25, 2014, District sent Parent and Mr. Amster a letter that scheduled a resolution session for July 28, 2014. Neither Parent nor Mr. Amster attended the resolution session, or contacted District to reschedule the resolution session.

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 established that it made reasonable efforts to obtain Parent's and Mr. Amster's participation in a resolution session prior to filing its motion to extend procedural timelines, and it documented those reasonable efforts in its motion. Student has failed to respond to District's motion 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 10 business days from the date of this order.

ORDER

1. District's motion to extend procedural timelines is granted.
2. The parties are ordered to participate in a resolution session within 10 business days of the date of this order. District shall schedule the resolution session within three business days of this order.
3. All previously scheduled dates are vacated. The procedural timelines are reset as of the date of this order and OAH shall issue a new scheduling order. Nothing in this order bars District from filing a motion to dismiss if Parent does not attend the resolution session.

DATE: August 8, 2014

/s/

PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings