

**BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA**

**IN THE CONSOLIDATED MATTERS OF:  
PARENT ON BEHALF OF STUDENT,**

**v.**

**SADDLEBACK VALLEY UNIFIED SCHOOL DISTRICT,  
OAH CASE NUMBER 2019080711**

**and**

**SADDLEBACK VALLEY UNIFIED SCHOOL DISTRICT,**

**v.**

**PARENT ON BEHALF OF STUDENT,  
OAH CASE NUMBER 2019051285**

**ORDER DENYING MOTION TO DISMISS OR RESET TIMELINES**

On May 30, 2019, Saddleback Valley Unified School District filed with the Office of Administrative Hearings, referred to as OAH, a Request for Due Process Hearing in OAH case number 2019051285, naming Student. A Request for Due Process Hearing is referred to as a complaint. On August 20, 2019, Parent on behalf

of Student filed a complaint in OAH case number 2019080711, naming Saddleback Valley Unified. On August 20, 2019, OAH consolidated both matters.

On September 23, 2019, Saddleback Valley Unified filed a motion to dismiss or extend timelines for Student's failure to participate in a mandatory resolution session. On September 26, 2019, Student filed an opposition to the motion, supported by Parent's declaration, and on September 27, 2019, Student filed an amended opposition to the motion with a second declaration from Parent.

## **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 is waived or held. (34 C.F.R. § 300.510(b)(3).) The local educational agency 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**

Saddleback Valley Unified submitted a declaration under oath from its Director of Special Education, along with several emails. The evidence establishes that in late August 2019 through mid-September 2019, Saddleback Valley Unified made efforts via telephone calls and emails to set a resolution session with Parent. Parent requested, due to calendar conflicts, to conduct the session by telephone. The director sent an

email to Parent dated August 28, 2019. In that email, the director stated that if Parent would prefer, "in lieu of a resolution session," Parent could send a confidential settlement proposal with Student's demands and that Saddleback would also be willing to waive the resolution session if Parent agreed to participate in an OAH mediaion. The director indicated that by doing so, Saddleback Valley Unified would be "amenable to waiving the resolution session." Although Parent acknowledged the email, Parent did not substantively respond to Saddleback Valley Unified's proposals. On September 13, 2019, a representative of Saddleback Valley Unified emailed parent, requesting a response to the prior email, and asking for a response at Parent's "earliest convenience."

In Parent's amended opposition, Parent includes an email dated September 27, 2019, to the office of special education at Saddleback Valley Unified. Parent has filed a declaration under oath confirming she provided a settlement offer to Saddleback Valley Unified, as requested, and states she is willing to mediate the matter. The email indicates an attachment identified as a settlement offer for Student and states Parent was unaware of a time deadline to provide the settlement offer. Although Parent's response came after Saddleback Valley Unified filed its motion, Parent is correct that there was no specific deadline for the director's proposal. Since Parent submitted a written proposal "in lieu of a resolution session," Student has complied, and the resolution session was waived. Therefore, the motion to dismiss is denied.

In the alternative, Saddleback Valley Unified requests OAH reset all timelines to promote fairness and to allow Saddleback Valley Unified an opportunity to resolve Student's complaint informally. Although Parent did not communicate the settlement offer within 30 days of filing Student's complaint, Saddleback Unified received the settlement demand on September 27, 2019, seven days later. Saddleback has not presented any facts or evidence why that seven day delay has prejudiced it. Parent also

indicates Student remains open to mediation. As such, there is no basis to extend the timelines. All dates are confirmed.

**IT IS SO ORDERED**

DATED: September 30, 2019

DocuSigned by:



Brian H. Krikorian

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Administrative Law Judge

Office of Administrative Hearings