

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

CALIFORNIA CONNECTIONS ACADEMY.

OAH CASE NUMBER 2021080880

ORDER GRANTING MOTION TO COMMENCE DUE
PROCESS HEARING TIMELINE AND SETTING PREHEARING
CONFERENCE AND HEARING DATES

SEPTEMBER 22, 2021

On August 30, 2021, Student filed a due process hearing request with the Office of Administrative Hearings, called OAH. Student named the California Connections Academy as the respondent. The Academy acknowledges that it received the complaint on that date.

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). There is no due process hearing until the resolution session is waived or held. (34 C.F.R. § 300.510(b)(3).) The 45-day timeline for the due process hearing that is set forth in Education Code section 56505(f)(3) does not begin to run until the resolution session is either held or waived. If the local education agency fails to hold the resolution session within 15 days, the parent may seek the intervention of the hearing office to begin the due process timeline.

DISCUSSION

Here, Parent moves to commence the 45-day due process timelines because the Academy failed to hold a resolution session by 15 days after it received the complaint, or September 14, 2021. Academy responded to the motion acknowledging that no resolution session has been held, and acknowledging that it did not even attempt to start the convening process until September 13, 2021. Due to scheduling difficulties, the session has not occurred. Academy in its response to the motion therefore seeks an unstated amount of additional time before the due process timeline commences. However, Academy cites no authority for the proposition that these circumstances warrant additional time. Parent, on the other hand, cites the unambiguous statute authorizing the hearing officer to commence the timeline when the session has not yet been held.

Therefore, Student's motion to commence the 45-day timeline is granted. The 45-day deadline will begin today, September 22, 2021.

New PHC Date and Time: October 4, 2021 at 1:00 PM.

New Hearing Dates: October 12-14, 2021.

IT IS SO ORDERED

June Lehrman

June Lehrman

Administrative Law Judge

Office of Administrative Hearings