

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:
PARENTS ON BEHALF OF STUDENT,

v.

NEW WEST CHARTER.
OAH CASE NUMBER 2024010237

ORDER DENYING MOTION TO COMPEL RESOLUTION
SESSION OR, ALTERNATIVELY, TO SET THE HEARING DATE

JANUARY 22, 2024

On January 9, 2024, Student filed a due process hearing request with the Office of Administrative Hearings, called OAH, naming New West Charter.

On January 16, 2024, Student filed a motion to compel or, in the alternative, set the hearing date, regarding New West Charter's alleged failure to timely hold a mandatory resolution session.

On January 19, 2024, New West Charter filed a response to Student's motion. On January 22, 2024, Student filed a supplement to the motion.

A local educational agency is required to meet with the parents and with 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 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 respondent may 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).)

Here, the parties have made mutual attempts to schedule the resolution session within the 15-day timeline. However, Student filed the motion to compel or, alternatively, to set the hearing date, on a date within the resolution period. The motion is, therefore, not ready for ruling.

For the foregoing reasons, OAH issues the following order:

1. Student's motion to compel a resolution session, or alternatively, to set the hearing, is denied.
2. Nothing in this order precludes either party from filing a motion regarding the resolution session, should the parties be unwilling or unable to hold the session by or on January 24, 2024.

IT IS SO ORDERED

Cole Dalton

Cole Dalton

Administrative Law Judge

Office of Administrative Hearings