BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. TEHACHAPI UNIFIED SCHOOL DISTRICT.	OAH Case No. 2018070708 ORDER DENYING MOTION TO COMPEL TEHACHAPI TO CONFIRM THAT IT WILL CONSIDER SETTLING ALL CLAIMS IN THIS MATTER, OR IN THE ALTERANTIVE, THAT IT WAIVE THE RESOLUTION SESSION

On July 16, 2018, Parent on behalf of Student, filed with the Office of Administrative Hearings a Request for Due Process Hearing, naming Tehachapi Unified School District.

On August 7, 2018, Parent on behalf of Student, filed a Motion to Compel, seeking an order confirming that Tehachapi can settle this matter in its entirely, or in the alternative, an order compelling Tehachapi to waive the resolution session. Student contends that Parent's spouse is a Tehachapi school board trustee and there is a question if Tehachapi can fully settle the case. If Tehachapi cannot confirm this, Student requests OAH compel it to waive the resolution session.

APPLICABLE LAW AND DISCUSSION

A school district, or local education agency, must convene a meeting to discuss the issues raised in a due process complaint in order to attempt to resolve the dispute. (34 C.F.R. § 300.510 (a)(1),(2).) This meeting is commonly known as a resolution session. A resolution session need not be held if the parent and school district agree in writing to waive it (*Id*. at § 300.510 (a)(3)(i)) or if the parent and school district agree to use mediation instead of a resolution session (*Id*. at § 300.510 (a)(3)(ii)). If the parties agree to waive the resolution session, the 45-day timeline for a due process hearing begins the day after the waiver. (*Id*. at § 300.510(c)(1).) However, the timeline does not automatically begin if the parties agree to use mediation instead of a resolution session. (*Id.* at § 300.510(c).)

While OAH encourages settlement, it is up to each party to determine if it can settle all portions of a case. Here, Tehachapi reiterated its position regarding settlement to Student in its August 7, 2018, correspondence. Further, OAH does not compel parties to consider settling a case, regardless of the circumstances or ability for a party to settle. Moreover, Student failed to provide any authority supporting her position that OAH can compel a party to confirm that they can fully settle a case.

Additionally, OAH does not compel parties to waive their mandatory resolution session. A resolution session is mandatory unless *both* parties agree to waive it, and Student failed to cite any law that OAH has jurisdiction to waive a party's resolution session. For these reasons, Student's motion to compel is denied.

IT IS SO ORDERED.

DATE: August 15, 2018

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Cynthia Fritz
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CYNTHIA FRITZ
Administrative Law Judge
Office of Administrative Hearings