

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT on behalf of STUDENT,

v.

ALVORD UNIFIED SCHOOL DISTRICT.

OAH CASE NO. 2009070877

ORDER ON DISTRICT'S MOTION TO  
DISMISS

On August 18, 2009, Alvord Unified School District (District) filed a motion to dismiss Student's due process hearing request on the ground that Student had not attended a mandatory resolution session despite the District's efforts to schedule one. Student opposed the motion on the ground that Student is currently willing to attend a resolution session. As discussed below, this matter will be dismissed if Student fails to attend a resolution session on September 2, 2009, a date previously scheduled for the prehearing conference.

When a student requests a due process hearing, he or she must attend an informal resolution session with the local education agency prior to going to hearing unless the parties agree in writing to waive the resolution session. (Ed. Code, § 56501.5.) Here, the District has not waived their right to a resolution session and Student must attend the resolution session prior to a hearing being scheduled. However, because Student has represented that her parents and her attorney are willing to attend a resolution session, Student should be given an opportunity to do so prior to dismissal.

ORDER

1. All dates are vacated.
2. Because the parties have demonstrated that they are incapable of mutually agreeing to a resolution session date, a resolution session shall be held on September 2, 2009 at 1:30 p.m. at Instructional Support Services, 4671 LaSierra Avenue, Riverside, California, 92505. This date was previously scheduled for the prehearing conference in this case. Both parties shall make themselves available at this date and time. As discussed below, failure of parents to participate will result in dismissal.
3. The 45 day timeline for issuance of a decision in this matter shall begin to run on September 3, 2009. A telephonic status conference and trial setting conference will be held with the attorneys for both parties on September 3, 2009 at 1:30 p.m. The parties shall report on whether the resolution session occurred. If the resolution session did not occur, the matter shall be dismissed. If the resolution session occurred, a trial setting conference will be held. The parties shall, prior to the trial setting conference, have determined whether a continuance is required and agreed to

mutually convenient dates for mediation (if desired), a prehearing conference, and hearing.

Dated: August 26, 2009

/s/

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RICHARD T. BREEN  
Administrative Law Judge  
Office of Administrative Hearings