

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL  
DISTRICT.

OAH CASE NO. 2009101544

ORDER ON MOTION FOR  
ABEYANCE/DISMISSAL AND  
SETTING STATUS CONFERENCE

Parents, on behalf of Student, filed a Request for Mediation and Due Process Hearing on October 23, 2009, with the Office of Administrative Hearings (OAH). On October 29, 2009, OAH issued a scheduling order, setting mediation for December 1, 2009, a prehearing conference for January 6, 2010, and a due process hearing for January 12, 2010.

On November 17, 2009, Los Angeles Unified School District (District) filed a Motion to Put Due Process Hearing in Abeyance because of Student's Parents' refusal to participate in a mandatory resolution session. The motion is supported by Declaration of Deborah Neal and exhibits. Student has not filed an opposition to the motion. The District's motion will be considered as a motion to dismiss.

APPLICABLE LAW

The District shall convene a meeting with the parents and the relevant member of the Individualized Education Program (IEP) within 15 days of receiving the notice of Student's complaint. (20 U.S.C. §1415(f)(1)(B)(i)(I); 34 C.F.R. §300.510(a)(1).) The resolution session need not be held if it is waived by both parties in writing or the parties agree to use mediation. (34 C.F.R. §300.510(a)(3).) If a parent does not participate in the resolution session, and the resolution session has not otherwise been waived by the parties, the timelines for the due process hearing is delayed and a due process hearing shall not take place until a resolution session is held. (34 C.F.R. §300.510(b)(3).)

DISCUSSION

In her declaration in support of the motion, Deborah Neal states she is a Specialist for the Due Process Department of District and was assigned this matter for purposes of scheduling a mandatory resolution session with the Student's Parents. Dr. Neal telephoned the Parents and spoke to Student's Mother and Father. The Parents informed her that they would not participate in a resolution session or mediation. Parents wanted to directly proceed to a due process hearing unless the District was willing to grant all the resolutions proposed in the complaint. Dr. Neal

attempted to both explain the resolution process and to schedule a mutually convenient date for the resolution meeting. Student's Father refused.

District attempted to schedule a timely resolution process. The Parents have refused to schedule the session. The District has not waived the resolution session.

Accordingly, the District's motion is granted.

#### ORDER

1. The mediation date of December 1, 2009, is vacated..
2. The parties are ordered to schedule and attend a resolution session no later than December 11, 2009.
3. The parties shall attend a telephonic status conference on December 14, 2009, at 10:00 a.m. The parties will report on the status of the case.
4. If the parties have failed to participate in a resolution session by the December 14, 2009 status conference, the due process request will be dismissed.
5. If the resolution session occurred, the case will proceed to prehearing conference on January 6, 2010 at 1:30 p.m. and to hearing on January 12, 2012, as currently scheduled.
6. Prior to the status conference of December 14, 2009, the parties shall have discussed whether a continuance is necessary and agree to mutually convenient dates for mediation (if desired), a prehearing conference date (must be a Monday or Wednesday at 10:00 a.m. or 1:30 p.m.) and due process hearing date (or dates, if more than 1 day is necessary for hearing).

Dated: November 25, 2009

/s/

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CLIFFORD H WOOSLEY  
Administrative Law Judge  
Office of Administrative Hearings