

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

RIVERSIDE UNIFIED SCHOOL  
DISTRICT.

OAH CASE NO. 2010030616

ORDER GRANTING MOTION TO  
REALIGN HEARING DATES AND  
SETTING MEDIATION, PREHEARING  
CONFERENCE AND DUE PROCESS  
HEARING

On March 5, 2010, Parents on behalf of Student, through counsel, filed with the Office of Administrative Hearings (OAH) a Request for Due Process Hearing (Complaint) that named the Riverside Unified School District (District).

On March 11, 2010, OAH issued an initial Scheduling Order in the matter that set a mediation for April 13, 2010, a prehearing conference for April 26, 2010, and a due process hearing for May 3, 2010.

On April 14, 2010, counsel for the District filed with OAH a Motion to Realign Hearing Dates, supported by the Declaration of Timothy R. Walker. The motion seeks to reset the mediation and hearing dates in this matter because Student did not agree to participate in a Resolution Session as regards this case until April 13, 2010. OAH has not received a response to this motion from Student.

APPLICABLE LAW

A local educational agency (LEA) is required to convene a Resolution Session with the parents and the relevant members of the Individualized Education Program (IEP) team within 15 days of receiving notice of the Student's due process complaint. (20 U.S.C. § 1415(f)(1)(B)(i)(I); 34 C.F.R. § 300.510(a)(1)(2006).) The LEA has 30 days from receipt of the complaint to resolve the matter through the Resolution Session. (34 C.F.R. § 300.510(b)(1)(2006).) The timeline for issuance of a decision in the matter begins at the expiration of the 30 day period. (34 C.F.R. § 300.510(b)(2)(2006).) If the parents do not participate in the Resolution Session, and it has not been otherwise waived by the parties, a due process hearing shall not take place until a Resolution Session is held. (34 C.F.R. § 300.510(b)(3)(2006).) In addition, if the parents do not participate in the Resolution Session, the decision timeline in the case is delayed. (*Ibid.*)

## DISCUSSION

In this case, Student filed and served the Complaint on March 5, 2010. The law required the District to convene the Resolution Session within 15 days, or by March 22, 2010, and complete the Resolution Session process within 30 days, or by April 5, 2010. Instead, Parents did not agree to participate in a Resolution Session until April 13, 2010. Because this date is outside the time required by law for holding the Resolution Session, the decision timeline and the hearing dates in this case must be readjusted. OAH will consider that April 13, 2010, is the 15 day convening date for the Resolution Session, and adjust the mediation and hearing dates in the matter accordingly.

## ORDER

1. The District's Motion to Realign Hearing Dates is granted.
2. All previously set dates in this matter are vacated.
3. The 30 timeline for the decision in this case shall commence on April 28, 2010.
4. The Office of Administrative Hearings shall issue a revised Scheduling Order in this case which sets a mediation on May 5, 2010, a prehearing conference on May 17, 2010, and a due process hearing on May 24, 2010.

Dated: April 22, 2010

/s/

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TIMOTHY L. NEWLOVE  
Presiding Administrative Law Judge  
Office of Administrative Hearings