

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2011040874

ORDER GRANTING MOTION TO
EXTEND PROCEDURAL TIMELINES

On April 22, 2011, Father, on behalf of Student, filed with the Office of Administrative Hearings (OAH) a due process hearing request (complaint) against the Los Angeles Unified School District (District).

On June 7, 2011, attorney Patrick J. Balucan, filed on behalf of the District, a motion to extend procedural timelines due to Father's non-participation in a mandatory resolution session. OAH has received no response from Student.

APPLICABLE LAW

A local educational agency (LEA) is required to convene a meeting with the parents and the relevant members of the Individualized Education Program (IEP) team within 15 days of receiving notice of the Student's complaint. (20 U.S.C. § 1415(f)(1)(B)(i)(I); 34 C.F.R. § 300.510(a)(1) (2006).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 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).) If the LEA is unable to obtain the participation of the parent in the resolution meeting after reasonable efforts have been made and documented, the LEA may, at the conclusion of the 30-day period, request that a hearing officer dismiss the complaint. (34 C.F.R. §300.510(b)(4).)

¹ All subsequent references to the Code of Federal Regulations are to the 2006 version.

DISCUSSION

The District's motion, supported by sworn declaration of Jose J. Gonzalez, District Due Process Specialist, indicates that Student did not attend the resolution session scheduled for May 13, 2011. On May 9, 2011, the District sent Father a letter that scheduled a resolution session for May 13, 2011. Father did not attend the resolution session, or contact the District to reschedule the resolution session.

Student's parent is required to participate in a resolution session before a due process hearing may be commenced, and OAH has discretion to dismiss the matter if the parent refuses to participate in a resolution session and the district provides appropriate documentation supporting its motion to dismiss.

There has been no agreement to waive the resolution or proceed to mediation in lieu of the resolution session in this case. Moreover, District established that it made reasonable efforts to obtain Student's parent's participation in a resolution session prior to filing its motion extend procedural timelines, and it documented those reasonable efforts in its motion. Student has failed respond to District's motion and has not provided OAH with an adequate reason for failing to participate in a resolution session within 30 days. Therefore, the District's motion to extend procedural timelines is granted. A resolution session shall be held within 10 business days from the date of this order.

ORDER

1. The District's motion to extend procedural timelines is granted
2. The parties are ordered to participate in a resolution session within 10 business days of the date of this order. The District shall schedule the resolution session within three business days of this order.
3. All previously scheduled dates are vacated. The procedural timelines are reset as of the date of this order. Nothing in this order bars the District from filing a motion to dismiss if Father does not attend the resolution session.

Dated: June 13, 2011

/s/

PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings