

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

VENTURA UNIFIED SCHOOL
DISTRICT, OJAI UNIFIED SCHOOL
DISTRICT, AND VENTURA COUNTY
SELPA.

OAH CASE NO. 2014010294

NOTICE CONCERNING AGREEMENT
TO USE MEDIATION IN LIEU OF
RESOLUTION SESSION

Student filed this complaint with the Office of Administrative Hearings (OAH) on January 9, 2014. Mediation is scheduled on February 13, 2014, a prehearing conference is scheduled on February 24, 2014, and a hearing is scheduled to begin on March 3, 2014. On January 21, 2014, District submitted to OAH a letter dated January 20, 2014, to Student indicating that the parties “mutually agreed to waive the resolution session . . . and agreed to instead proceed to mediation.”

APPLICABLE LAW AND DISCUSSION

A school district 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); Ed. Code, § 56501.5, subd. (a).) 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); § 56501.5, subd. (b)) or if the parent and school district agree to use mediation instead of a resolution session (*Id.* at § 300.510 (a)(3)(ii); § 45401.5, subd. (b)). 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); 56501.5, subd. (d)(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); also see 56501.5, subd. (d).)

When the parties agree in writing to waive a resolution session, OAH will move forward the dates for mediation, prehearing conference, and hearing to accommodate the beginning of the 45-day timeline for hearing.

In this case, the parties desire to proceed to mediation on the currently scheduled date, and did not express any desire to advance the timeline. This indicates that the parties intend to use mediation in lieu of a resolution session.

Accordingly, this document is being treated as an agreement to use mediation instead of a resolution session, under 34 Code of Federal Regulations part 300.510(a)(3)(ii), and not a waiver of the resolution session under part 300.510(a)(3)(i) and (c)(1). As a result, the timeline governing this matter shall not change.

Dated: January 23, 2014

/s/

JUDITH A. KOPEC
Division Presiding Administrative Law Judge
Office of Administrative Hearings