

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

BELLFLOWER UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2014031056

ORDER FOLLOWING PREHEARING
CONFERENCE OF MAY 12, 2014;
ORDER DENYING MOTION TO
DISMISS AND ORDERING PARTIES
TO ATTEND A RESOLUTION
SESSION

On May 12, 2014, a telephonic prehearing conference (PHC) was held before Administrative Law Judge (ALJ) Paul H. Kamoroff, Office of Administrative Hearings (OAH). Keith E. Davis, Attorney at Law, appeared on behalf of Parent on behalf of Student (Student). Jordan Meyer, Attorney at Law, appeared on behalf of the Bellflower Unified School District (District). The PHC was recorded.

On May 8, 2014, District filed a motion to dismiss based upon Student's failure to attend a resolution session. Student did not file an opposition. At the beginning of the PHC, the ALJ received oral argument regarding District's motion to dismiss.

A local educational agency (LEA) is required to convene a resolution 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).) The resolution session need not be held if it is waived by both parties in writing or the parties agree to use mediation. (20 U.S.C. § 1415(f)(1)(B)(i)(IV); 34 C.F.R. § 300.510(a)(3) (2006).) There are no provisions of law that allow a parent or an LEA to unilaterally waive the resolution meeting. (71 Fed. Reg. 47602, No. 156 (Aug. 14, 2006).) The 45-day timeline for the due process hearing starts the day after a resolution meeting, unless the parties agree in writing to waive the resolution meeting. (34 C.F.R. § 300.513(b) & (c) (2006).)

Student does not dispute that a resolution meeting has not been waived or held. Accordingly, District is entitled to a resolution meeting prior to the hearing.

ORDER

1. District's motion to dismiss is denied at this time.
2. The parties are ordered to participate in a resolution meeting within 30 days of the date of this order.
3. All previously scheduled dates are vacated, and all timelines are reset, such that Student's complaint is deemed filed as of the date of this order.
4. OAH shall issue a new scheduling order setting dates for Mediation, Prehearing Conference, and Due Process Hearing.
5. If Student fails to attend the resolution meeting as ordered, District may refile its motion to dismiss.

DATE: May 12, 2014

PAUL H. KAMOROFF
Administrative Law Judge
Office of Administrative Hearings