

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LODI UNIFIED SCHOOL DISTRICT.

OAH Case No. 2014100064

ORDER GRANTING REQUEST FOR
SET MEDIATION

On October 23, 2014, the parties filed a request to set mediation in this matter for October 30, 2014. That would have set mediation within the 30-day resolution session timeline, and on October 24, 2014, the Office of Administrative Hearings denied the request. On October 27, 2014, the parties filed another request. The parties specifically agreed to waive resolution session and again requested that OAH set mediation for October 30, 2014.

APPLICABLE LAW, DISCUSSION AND ORDER

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).) 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)) or if the parent and school district agree to use mediation instead of a resolution session (*Id.* at § 300.510 (a)(3)(ii)). 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).) However, the timeline does not automatically begin if the parties agree to use mediation instead of a resolution session. (*Id.* at § 300.510(c).)

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 indicated they are waiving the resolution session and wish to proceed to mediation, but did not express a desire to advance the timeline with respect to the hearing. Accordingly, this notice 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 does not change.

The parties' request is granted. The mediation in this matter is advanced to October 30, 2014. All other dates remain as calendared.

IT IS SO ORDERED.

DATE: October 28, 2014

/s/

BOB N. VARMA
Presiding Administrative Law Judge
Office of Administrative Hearings