

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SPENCER VALLEY ELEMENTARY
SCHOOL DISTRICT.

OAH Case No. 2014120575

ORDER DENYING REQUEST TO
BEGIN DECISION TIME LINE

Student filed a complaint on December 5, 2014, naming Spencer Valley Elementary School District. A prehearing conference is scheduled on January 23, 2015, and the hearing is scheduled to begin on February 4, 2015.

On January 6, 2015, Student filed a Notice re: Failure of District to Convene Resolution Meeting with [sic] Statutory 15-day Period; Request to Confirm Hearing Dates. On the same day, Student filed a Supplement to Student's Notice re: Failure to of [sic] District to Convene Resolution Meeting within Statutory 15 Day Period; Notice of Completion of Resolution Meeting and Request to Confirm Hearing Dates.

On January 8, 2015, Spencer Valley filed a response to Student's supplemental notice.

APPLICABLE LAW

A school district is required to convene a meeting with the parents and the relevant members of the Individualized Education Program team within 15 days of receiving notice of the complaint. (20 U.S.C. § 1415(f)(1)(B)(i)(I); 34 C.F.R. § 300.510(a)(1).) This is commonly referred to as a resolution session. The resolution session need not be held if it is waived by both parties in writing or the parties agree to use mediation instead of a resolution session. (34 C.F.R. § 300.510(a)(3).)

If the school district does not resolve the issues in the complaint to the satisfaction of the parent within 30 days of the receipt of the due process complaint, the due process hearing may occur. (34 C.F.R. § 300.510(b)(1).) The timeline for issuing a written decision begins at the expiration of this 30-day period, unless otherwise authorized by law. (34 C.F.R. § 300.510(b)(2).)

If the school district fails to hold the resolution session within 15 days of receiving notice of the complaint, or fails to participate in the resolution session, the parent may seek the intervention of an administrative law judge to begin the due process hearing timeline. (34 C.F.R. § 300.510(b)(5).)

DISCUSSION

Student contends that Spencer Valley did not convene a resolution session by December 20, 2014. On December 30, 2014, Spencer Valley sent a letter to Parent stating that it wanted to convene a resolution session on January 6, 2015. On January 6, 2015, the parties participated in a resolution session, but did not resolve the dispute. Student's factual contentions are supported with Parent's declaration submitted with its supplemental filing. Student requested that the timeline for decision be initiated and the hearing dates be confirmed.

Spencer Valley contends it was closed for winter break from Saturday, December 20, 2014, through Sunday, January 4, 2015. Spencer Valley's factual contentions are not supported by a declaration or other evidence. It argued that the 30-day resolution period expired on January 4, 2015, and the timeline for decision began on January 5, 2015. Spencer Valley argued that since the timeline for decision began prior to Student's January 6, 2015 filing, there is no reason to begin the decision timeline or to confirm the hearing dates.

It is unclear what Student is requesting. Student filed this request on January 6, 2015, the day of the resolution session and 32 days after filing the complaint. Since Student did not request initiation of the decision timeline prior to 30 days after the complaint was filed and the resolution period had already passed when Student filed this request, it is denied as moot. The prehearing and hearing dates remain as scheduled.

DATE: January 12, 2015

/s/

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