

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. 2009101071

ORDER GRANTING MOTION TO
EXTEND PROCEDURAL TIMELINES

On October 14, 2009, Mother, on behalf of Student, filed with the Office of Administrative Hearings (OAH) a Request for Mediation and Due Process Complaint (Complaint) that named the Los Angeles Unified School District (District) as the respondent.

On October 28, 2009, OAH issued a Determination of Sufficiency of Due Process Complaint which found the Complaint insufficient and granted the District's Notice of Insufficiency. The Determination of Sufficiency gave Student 14 days to file an Amended Due Process Complaint. On November 24, 2009, OAH granted Student's request for an extension of time to file an Amended Due Process Complaint in this matter.

On November 25, 2009, Mother, on behalf of Student, filed with OAH an Amended Request for Mediation and Due Process Hearing (Amended Complaint) that named the District as the respondent. Thereafter, the District attempted to hold a resolution session, but Mother has yet to participate with the District in a resolution session.

On January 15, 2010, the District filed with OAH a Motion to Put Due Process Hearing in Abeyance. With this motion, the District requests OAH to place Student's Amended Complaint on hold until Mother participates in a resolution session. Because OAH does not place special education administrative due process proceedings in an off-calendar status, OAH will treat the Motion to Put Due Process Hearing in Abeyance as a motion to extend the procedural timelines in the case.

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).) 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) (2006).) 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)(2006).) 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)(2006).)

DISCUSSION

In this case, after Student filed with OAH the Amended Complaint, the District attempted on several occasions to hold a resolution session with Mother. In particular, on December 10, 2009, a District employee called Mother in an attempt to schedule a mutually convenient time for a resolution session. Mother's phone line was disconnected. On the same day, a District Due Process Specialist sent Mother a letter which offered to reschedule the resolution session for December 18, 2009. Mother did not respond to this letter.

When a parent files a special education administrative due process complaint, the parent must participate in a resolution session before the matter goes to hearing. In this case, Mother has not participated in a resolution session despite repeated District attempts to schedule such a session. Without a resolution session, there can be no due process hearing in this case. Accordingly, the District's motion to extend procedural timelines is granted. A resolution session shall be held within 30 business days from the date of this Order.

ORDER

1. The motion to extend procedural timelines brought by the Los Angeles Unified School District is granted.
2. All previously set dates in this matter are vacated.
3. The parties are ordered to participate in a resolution session within 30 business days from the date of this Order.
4. The timelines for hearing established pursuant to Title 20 United States Code section 1415(f)(1)(B) shall recommence on the date of this Order.
5. Concurrently with this Order, OAH shall issue a new Scheduling Order in the case.

It is so ordered.

Dated: January 20, 2010

/s/

TIMOTHY L. NEWLOVE
Presiding Administrative Law Judge
Office of Administrative Hearings