

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS on behalf of STUDENT,

v.

SAN LEANDRO UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2010030139

ORDER GRANTING MOTION TO
BEGIN DUE PROCESS TIMELINE

On February 26, 2010, Parents on behalf of Student filed a Request for Due Process Hearing (Complaint) with the Office of Administrative Hearings, naming San Leandro Unified School District (District). On March 2, 2010, OAH issued a scheduling order setting mediation for April 6, 2010, the prehearing conference for 1:30 p.m., April 19, 2010, and the due process hearing for April 26, 2010.

On March 19, 2010, Student filed a Motion to Begin Due Process Hearing Timeline Immediately, stating that the District failed to schedule a resolution meeting within 15 days of receiving notice of the complaint. On March 24, 2010, District responded, acknowledging that it had not scheduled the resolution session. Student filed a reply on March 26, 2010.

APPLICABLE LAW

The local educational agency (LEA) shall convene a meeting with the parents and other relevant members of the IEP Team within 15 days of receiving notice of the parents' complaint.¹ If the LEA fails to hold the resolution meeting within 15 days of receiving notice of the complaint, the parent may seek the intervention of a hearing officer to begin the due process hearing timeline.²

DISCUSSION

The District acknowledges that it failed to hold a resolution session within 15 days of the complaint's filing. Therefore, Parents are entitled to seek an order beginning the due process timeline. The motion is granted.

The Student's motion to begin the timeline was filed on March 19, 2010. The 45-day timeline shall therefore commence on March 19, 2010. The mediation scheduled for April 6, 2010, at 9:30 a.m., shall remain as scheduled.

¹ 20 U.S.C. § 1415(f)(1)(B); Ed. Code, § 56501.5(a).

² 34 C.F.R. § 300.510(b)(5); Ed. Code, § 56501.5(e)(2).

Student seeks a due process hearing for three consecutive days. The presently scheduled due process hearing date is vacated; the due process hearing is advanced to and scheduled for April 20, 21, and 22, 2010. The presently scheduled prehearing conference is vacated; the prehearing conference is advanced to and scheduled for 1:30 p.m., April 12, 2010.

ORDER

1. The motion to begin due process hearing timeline is granted.
2. The 45-day due process timeline is deemed to have begun running on March 19, 2010.
3. The presently scheduled mediation of 9:30 a.m., April 6, 2010, shall remain as scheduled.
4. The prehearing conference and due process hearing dates of April 19 and 26, 2010, are vacated.
5. The prehearing conference is scheduled for 1:30 p.m., April 12, 2010.
6. The due process hearing is scheduled for April 20, 21 and 22, 2010.

IT IS SO ORDERED.

Dated: April 05, 2010

/s/

CLIFFORD H WOOSLEY
Administrative Law Judge
Office of Administrative Hearings