

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SAN MATEO-FOSTER CITY SCHOOL  
DISTRICT.

OAH CASE NO. 2012060328

NOTICE CONCERNING AGREEMENT  
TO MEDIATE IN LIEU OF A  
RESOLUTION SESSION

On June 26, 2012, Student submitted a letter to the Office of Administrative Hearings (OAH) stating that “both parties mutually agreed to waive the resolution session in this matter and proceed to mediation.” It also confirmed that the parties intend to participate in mediation, which is scheduled for July 10, 2012.

APPLICABLE LAW AND DISCUSSION

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 wish to proceed to mediation on the originally-scheduled date, and did not express a desire to advance the timeline. 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.

Dated: June 28, 2012

/s/

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