

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LODI UNIFIED SCHOOL DISTRICT AND
VALLEY MOUNTAIN REGIONAL
CENTER.

OAH CASE NO. 2013110146

ORDER DENYING STUDENT'S
REQUEST TO ADVANCE
SCHEDULED DATES

Student filed this complaint with the Office of Administrative Hearings (OAH) on October 31, 2013, naming Lodi Unified School District (Lodi) and Valley Mountain Regional Center (Regional Center). Mediation is scheduled on December 5, 2013, a prehearing conference is scheduled on December 16, 2013, and a hearing is scheduled to begin on December 24, 2013.

On November 15, 2013, Student notified OAH that “the parties have waived the ‘resolution session’ under 20 U.S.C. § 1415(f)(1)(B) [sic].” Student requested that OAH “advance the mediation and hearing dates accordingly.” The letter was signed by Student’s attorney. Nothing was submitted with District’s written consent to waive the resolution session.

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); Ed. Code, § 56501.5, subd. (a).) 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); § 56501.5, subd. (b)) or if the parent and school district agree to use mediation instead of a resolution session (*Id.* at § 300.510 (a)(3)(ii); § 45401.5, subd. (b)). 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); 56501.5, subd. (d)(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); also see 56501.5, subd. (d).)

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, Student did not file anything indicating District's written agreement to waive the resolution session. Accordingly, OAH denies Student's request to advance the scheduled dates.

Dated: November 20, 2013

/s/

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