

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

IRVINE UNIFIED SCHOOL DISTRICT.

OAH CASE NO. 2014020323

NOTICE CONCERNING AGREEMENT  
TO USE MEDIATION IN LIEU OF  
RESOLUTION SESSION

Student filed this complaint on March 7, 2014, so the resolution period runs through April 6, 2014. Mediation is currently scheduled on April 8, 2014. On March 10, 2014, the parties submitted a joint written request to the Office of Administrative Hearings (OAH) that stated they “jointly request to waive the resolution session and proceed straight to mediation.” The parties requested that the mediation be moved to March 13, 2014.

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. Under 34 Code of Federal Regulations part 300.510(a)(3)(ii), the parties can agree to use mediation instead of the resolution process. If this is the case, the prehearing conference and hearing dates and the timeline for decision do not change.

In this case, the parties indicated they wished to move forward the mediation into the 30-day resolution session period. However, they 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.

The parties' request to move the mediation to March 13, 2014, at 9:30 a.m. is granted. All other dates remain as scheduled.

DATE: March 10, 2014

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