

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

MT. DIABLO UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2014030613

ORDER GRANTING REQUEST TO
UTILIZE MEDIATION IN LIEU OF
RESOLUTION SESSION

This matter was filed on March 17, 2014. The 30-day resolution session in this matter is set to end on April 16, 2014. On April 1, 2014, the parties filed a request to reset the mediation in this matter, currently scheduled for April 22, 2014, to April 16, 2014. As such, it would fall on the last day of the 30-day resolution time line. The parties did not request to advance any other dates.

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, the document indicates the parties' desire to move the mediation forward to within the 30-day resolution period. The parties did not express a desire to advance the hearing timeline, which indicates their intent to use mediation in lieu of a resolution session.

Accordingly, this document 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 shall not change.

Mediation in this matter is reset to April 16, 2014, at 9:30 a.m.

IT IS SO ORDERED.

DATE: April 1, 2014

/s/

BOB VARMA
Presiding Administrative Law Judge
Office of Administrative Hearings