

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LONG BEACH UNIFIED SCHOOL  
DISTRICT.

OAH Case No. 2014100478

NOTICE OF AGREEMENT TO USE  
MEDIATION IN LIEU OF  
RESOLUTION SESSION

Student filed this complaint on October 9, 2014, so the resolution period runs through November 8, 2014. Mediation is scheduled on November 13, 2014.. On October 17, 2014, the parties submitted a joint written request to the Office of Administrative Hearings requesting that the mediation be moved to November 4, 2014, which is within the period for a resolution session. On October 17, OAH staff informed the parties that they need to determine if they wished to waive the resolution session or use mediation in lieu of a resolution session and submit it in writing.

On October 17, 2014, Long Beach submitted a letter stating, “The parties have agreed to waive the resolution session ...” Long Beach also submitted a series of emails that it stated “demonstrates the agreement.” Long Beach reiterated the request to schedule mediation for November 4. On October 18, 2014, Student submitted a document stating that both parties agreed to “waive the resolution session” and reiterated the request to conduct mediation on November 4. Neither party requested that the other scheduled dates be scheduled sooner.

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).)

The parties’ request is ambiguous. While both “waive[d] the resolution session,” and requested that the mediation be held during the period for a resolution session, they did not

request that the prehearing conference or hearing also be moved sooner. It is unclear whether the parties intended to waive the resolution session and have the timeline for decision begin immediately, or whether the parties elected to use mediation in lieu of the resolution session. However, the emails taken as a whole indicate the parties intended to use mediation in lieu of a resolution session. Accordingly, the mediation is moved to November 4, 2014, and all other dates remain as scheduled.

DATE: October 20, 2014

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