

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

COMPTON UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2015021096

ORDER DENYING MOTION TO
DISMISS; ORDER RESETTING
TIMELINES

On February 9, 2015, Father as holder of Student's educational rights¹ filed with the Office of Administrative Hearings a due process hearing request naming Compton Unified School District.

On June 4, 2015, District filed a motion to dismiss because Father did not attend the mandatory resolution session meetings it had arranged. On June 9, 2015, Student filed an opposition that asserted that Father has not been able to attend the resolution sessions District has scheduled due to medical reasons.

APPLICABLE LAW

A local educational agency is required to convene a meeting with the parents and the relevant members of the Individualized Education Program team within 15 days of receiving notice of the Student's complaint. (20 U.S.C. § 1415(f)(1)(B)(i)(I); 34 C.F.R. § 300.510(a)(1) (2006)².) The resolution session need not be held if it is waived by both parties in writing or the parties agree to use mediation. (34 C.F.R. § 300.510(a)(3).) If the parents do not participate in the resolution session, and it has not been otherwise waived by the parties, a due process hearing shall not take place until a resolution session is held. (34 C.F.R. § 300.510(b)(3).) If the LEA is unable to obtain the participation of the parent in the resolution meeting after reasonable efforts have been made and documented, the LEA may, at the conclusion of the 30-day period, request that a hearing officer dismiss the complaint. (34 C.F.R. §300.510(b)(4).)

¹ Student is a ward of the Juvenile Court, and Father obtained Student's educational rights just before the commencement of this matter.

² All subsequent references to the Code of Federal Regulations are to the 2006 version.

DISCUSSION

District established that it attempted to convene resolution sessions on March 2 and 11, 2015, and May 29, 2015, and that Father did not attend of these sessions despite being properly noticed. Student did not dispute District's assertions, other than Father was not able to attend any of the resolution sessions due to medical reasons, and for OAH to order Father to attend a resolution session on one of the dates District recently offered Father and Student's legal counsel.

The parties have not agreed to waive the resolution or proceed to mediation in lieu of the resolution session. District established that Father failed to attend any of the three resolutions it had scheduled. Student established that Father was not able to attend due to medical reasons. Thus, dismissal of Student's complaint is not presently necessary, and an extension of procedural timelines is warranted. Therefore, the District's motion to dismiss is denied. Instead, the procedural timelines are reset, and a resolution session shall be held on June 15, 2015, a date offered by District.

ORDER

1. District's motion to dismiss is denied.
2. The parties are ordered to participate in a resolution session on June 15, 2015. District shall schedule the resolution session within three business days of this order.
3. All previously scheduled dates are vacated. The procedural timelines are reset as of the date of this order, and OAH shall serve an amended scheduling order. Nothing in this order bars District from filing a motion to dismiss if Father does not attend the newly scheduled resolution session.

DATE: June 9, 2015

/s/

PETER PAUL CASTILLO
Presiding Administrative Law Judge
Office of Administrative Hearings