BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. SACRAMENTO CITY UNIFIED SCHOOL DISTRICT.	OAH Case No. 2015030166 ORDER GRANTING MOTION TO ADVANCE HEARING DATES

On February 27, 2015, Student filed a due process hearing request with the Office of Administrative Hearings naming Sacramento City Unified School District (Sacramento) as respondent.

On March 19, 2015, Student filed a motion to advance procedural timelines due to Sacramento's failure to convene a mandatory resolution session within 15 days of receipt of the complaint. An opposition was filed by Sacramento on March 24, 2015, and a reply to the opposition was filed by Student on March 25, 2015.

APPLICABLE LAW

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) A local educational agency is required to convene a meeting with the parents and the relevant members of the Student's individualized education program team within 15 days of receiving notice of a student's complaint. (20 U.S.C. § 1415(f)(1)(B)(i)(I); 34 C.F.R. § 300.510(a)(1).) 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).) The 45-day timeline for the rendering of a decision begins after an initial 30-day period for completion of the resolution session process. (34 C.F.R. § 300.510(b)(2).)

DISCUSSION

Student's motion indicates that Sacramento did not convene a mediation session within the 15 day time period after Student filed his complaint on February 27, 2015. The 15 days expired on March 16, 2015. Sacramento does not dispute receipt of the complaint on February 27, 2015. A proof of service attached to the complaint shows that it was faxed to the Director of Special Education for Sacramento. The fact that District's attorney did not have knowledge of the complaint until Student's attorney contacted her on March 17, 2015, is irrelevant, as is the fact that she believed a resolution session had already been held. Accordingly, Student's motion to advance the hearing is granted. A new scheduling order will be issued by OAH with new dates for mediation, prehearing conference and due process hearing, based on a 45-day timeline as of the date of this order. [1]

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ORDER

1. Student's motion to advance the timeline is granted.

2. OAH will issue a new scheduling order in accordance with this order, with new dates for mediation, prehearing conference and due process hearing.
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3. The 45-day timeline for this case will commence as of the date of this order..

DATE: March 26, 2015

/s/

REBECCA FREIE
Administrative Law Judge
Office of Administrative Hearings

[1] Sacramento has set a resolution session for March 27, 2015, and it is anticipated that Parents will participate or sign a mutual waiver with District since the hearing cannot go forward if there is neither a resolution session, nor a mutual waiver.