

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

TEHACHAPI UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2015060035

ORDER DENYING REQUEST TO
ADVANCE MEDIATION DATE

On May 19, 2015, the parties filed a joint request to advance the date for mediation in this matter from June 23, 2015, to June 9, 2015, which is in the 30 day resolution session period.

APPLICABLE LAW, DISCUSSION and ORDER

A school district, or local education agency, 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, the Office of Administrative Hearings will move forward the dates for mediation, prehearing conference, and hearing to accommodate the beginning of the 45-day timeline for hearing. However, a waiver of the resolution session period and request to advance dates must be in writing and signed by all parties.

Here, OAH has not received in writing from the parties a waiver of the resolution session and a request to advance the decision timeline. While the parties may wish to waive the resolution session and advance mediation date, they must make an affirmative request to advance the dates in the matter. It is only after receipt of such a request can OAH advance the mediation date to the date parties requested. The parties are advised that such a request would also advance the dates for the prehearing conference and due process hearing. Neither

party has waived the resolution session, nor requested to advance the dates. Accordingly, the parties' request to advance the mediation date is denied.

IT IS SO ORDERED

DATE: June 3, 2015

/s/

PETER PAUL CASTILLO
Presiding Administrative Law Judge
Office of Administrative Hearings