

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

AMADOR COUNTY UNIFIED SCHOOL  
DISTRICT AND AMADOR COUNTY  
OFFICE OF EDUCATION.

OAH CASE NO. 2010080422

ORDER DENYING REQUEST TO  
ACCELERATE TIME LINES AND  
GRANTING REQUESTED  
PREHEARING CONFERENCE AND  
DUE PROCESS HEARING DATES

On October 14, 2010, the Office of Administrative Hearings (OAH) granted Student's motion to amend his complaint and deemed the amended complaint filed as of the date of the order. OAH issued a scheduling order setting the matter for a prehearing conference on December 8, 2010, and due process hearing on December 13, 2010.

On October 27, 2010, the parties filed a joint request to hold a prehearing conference on November 29, 2010, and due process hearing on December 6 through 9, 2010. The Amador County Unified School District and Amador County Office of Education<sup>1</sup> also submitted a letter asserting that the parties had mutually waived the resolution session and the 30-day resolution period associated with the amended complaint.<sup>2</sup> While Districts' letter does not explicitly request an acceleration of the 45-day time line to hold a due process hearing and issue a written decision, it will be treated as a request for such acceleration of the time line.

DISCUSSION AND ORDER

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. (34 C.F.R. § 300.515(a); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3).) However, prior to the commencement of the 45-day time line for the due process hearing and written decision to be rendered, the local education agency (LEA) shall convene a resolution session within 15 days of receiving the notice of due process hearing request. (Ed. Code, § 56501.5, subd. (a)(1).) If the LEA fails to resolve the due process hearing issue to the satisfaction of the parents within 30 days of

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<sup>1</sup> Jointly referred to herein as "Districts."

<sup>2</sup> The letter is dated October 20, 2010, but was not received by OAH until October 27, 2010.

the receipt of the due process hearing request notice, the 45-day time line to conduct a due process hearing and issue a written decision shall commence. (Ed. Code, § 56501.5, subd. (c).) The 45-day time line may be accelerated if the parties agree in writing to waive the resolution meeting or if the LEA fails to timely convene the resolution session and the parents request that the 45-day time line commence. (Ed. Code, § 56501.5, subd. (d)(1) and (e)(2).)

The parties have jointly requested earlier prehearing conference and due process hearing dates than December 8 and 13, 2010, respectively. There is no authority preventing such a request and OAH will try to accommodate the parties when they jointly request earlier dates. With respect to Districts' letter stating that the parties waive the resolution session and the 30-day time line to resolve the due process hearing issues, the letter is signed only by counsel for Districts. Therefore, the October 20, 2010 letter does not constitute a written waiver by the parties that would trigger the commencement of the 45-day time line to hold a due process hearing and issue a written decision. Accordingly, the 45-day time line shall not change.

Districts' request to accelerate the 45-day time line to hold a due process hearing and render a written decision is denied. The parties' joint request for earlier prehearing conference and due process hearing dates is granted. The prehearing conference in this matter shall take place on November 29, 2010, at 10:00 a.m. The due process hearing in this matter shall take place on December 6, 2010, starting at 1:00 p.m., through December 9, 2010.

IT IS SO ORDERED.

Dated: October 29, 2010

/s/

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BOB VARMA  
Administrative Law Judge  
Office of Administrative Hearings