

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

ROSEVILLE JOINT UNION HIGH  
SCHOOL DISTRICT AND PLACER  
COUNTY CHILDREN'S SYSTEM OF  
CARE.

OAH CASE NO. 2011010772

ORDER DENYING MOTION TO  
DISMISS

On January 25, 2011, Student filed with the Office of Administrative Hearings (OAH) a due process hearing request (complaint) against the Roseville Joint Union High School District (RJUHSD) and Placer County Children's System of Care (PCCSOC).

On March 11, 2011, PCCSOC filed a motion to dismiss due to Student's Parent's non-participation in a mandatory resolution session. On March 16, 2011, Student filed an opposition to PCCSOC's motion to dismiss. On March 17, 2011, PCCSOC filed a response, and Student filed a further opposition on March 18, 2011. OAH has received no response from RJUHSD.

APPLICABLE LAW

A local educational agency (LEA) is required to convene a meeting with the parents and the relevant members of the individualized education program (IEP) 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).) 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).)

## DISCUSSION

PCCSOC seeks to dismiss Student's complaint because Parent did not attend a mandatory resolution session. PCCSOC did not attempt to convene the resolution session. Instead, PCCSOC relied on RJUHSD to convene the resolution session, and attended each of the three resolutions sessions convened. However, Parent did not attend the January 31, 2011 and February 4, 2011 resolution sessions because RJUHSD sent the meeting notification letter to the incorrect address, even though RJUHSD had Parent's correct address in the complaint and a prior notification from Parent. On February 10, 2011, RJUHSD scheduled a third resolution session for March 1, 2011, to take place after a scheduled IEP meeting for Student, and sent the letter to Parent's correct address. Parent attended the IEP meeting by phone, but did not stay for the resolution session because of her work schedule. On March 17, 2011, RJUHSD agreed to waive the resolution session.

Student's parent is required to participate in a resolution session before a due process hearing may be commenced, and OAH has discretion to dismiss the matter if the parent refuses to participate in a resolution session and the district provides appropriate documentation supporting its motion to dismiss.

While PCCSOC could rely on RJUHSD to schedule the resolution session for both parties, PCCSOC has to accept that RJUHSD did not hold the resolution session within 15 days after the receipt of the complaint because RJUHSD sent the meeting notice to the incorrect address, even though it had Parent's correct address. Student could then decide to proceed to hearing, which Student requests. (Ed. Code, § 56501.5, subd. (e)(2).) Therefore, PCCSOC's motion to dismiss is denied because of the failure to hold the resolution session within 15 days of receipt of the complaint due to the improper resolution session notice.

## ORDER

PCCSOC's motion to dismiss is denied.

Dated: March 22, 2011

/s/

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PETER PAUL CASTILLO  
Administrative Law Judge  
Office of Administrative Hearings