

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

NEWARK UNIFIED SCHOOL DISTRICT.

OAH CASE NO. 2012080065

NOTICE OF AGREEMENT TO USE
MEDIATION IN LIEU OF
RESOLUTION SESSION

On August 8, 2012, District submitted a letter to the Office of Administrative Hearings (OAH) stating that “the parties have agreed to waive the early resolution session and proceed to mediation.” It also stated that Student would provide OAH with a copy of the agreement to waive the early resolution session.

APPLICABLE LAW AND DISCUSSION

A school district 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, OAH will move forward the dates for mediation, prehearing conference, and hearing to accommodate the beginning of the 45-day timeline for hearing. In this case, the parties indicated they wish to proceed to mediation, but did not express a desire to advance the timeline. Accordingly, this

notice is being treated as an agreement to use mediation instead of a resolution session, under 34 Code of Federal Regulations part 300.510(a)(3)(ii), and not a waiver of the resolution session under part 300.510(a)(3)(i) and (c)(1). As a result, the timeline governing this matter does not change.

Dated: August 08, 2012

/s/

JUDITH KOPEC
Division Presiding Administrative Law Judge
Office of Administrative Hearings