

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

REDLANDS UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2014020477

ORDER DENYING DISTRICT'S
MOTION TO DISMISS

On February 12, 2014, Parent on behalf of Student filed with the Office of Administrative Hearings (OAH) a due process hearing request (complaint) against the Redlands Unified School District (District).

On March 3, 2014, the District filed a motion to dismiss due to Parent's failure to participate in a mandatory resolution session. On March 6, 2014, Student filed an opposition.

APPLICABLE LAW

A local educational agency (LEA) is required to convene a resolution 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);¹ 34 C.F.R. § 300.510(a)(1) (2006)².) The resolution session need not be held if it is waived by both parties in writing or the parties agree to use mediation. (20 U.S.C. § 1415(f)(1)(B)(i)(IV); 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, 30 days after receipt of the complaint, request that a hearing officer dismiss the complaint. (34 C.F.R. § 300.510(b)(4).)

¹ All statutory citations are to Title 20 United States Code unless otherwise indicated.

² All references to the Code of Federal Regulations are to the 2006 edition, unless otherwise indicated.

DISCUSSION

District's motion indicates that Parent did not respond to District's letter of February 14, 2014, attempting to schedule a resolution session. Student's opposition contends that Parent did not receive the letter or phone calls from District. Parent also states that, had he known he could have waived the informal resolution session in favor of mediation, he would have done so.

District has failed to adequately document reasonable efforts to obtain Parent's participation in the resolution session. District did not submit a sworn declaration to identify or authenticate the letter attached to its motion, and Parent asserts that he never received such a letter. District did not submit evidence that it had made calls to Parent to schedule a meeting, or to inquire if the letter was delivered when it received no response from Parent. Therefore, District's motion to dismiss Student's complaint is denied.

Nonetheless, the letter filed with District's motion offers Parent the option to waive the informal resolution session in writing, and Student's opposition states that Parent wishes to waive the resolution session in favor of mediation. Accordingly, District and Parent are deemed to have waived the resolution session in writing. All currently scheduled dates are confirmed.

IT IS SO ORDERED.

DATE: March 7, 2014

/s/

ALEXA J. HOHENSEE
Administrative Law Judge
Office of Administrative Hearings