

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

DEL MAR UNION SCHOOL DISTRICT.

OAH Case No. 2015080482

ORDER GRANTING MOTION TO
ADVANCE DUE PROCESS TIMELINE

On August 10, 2015, Parents on behalf of Student filed a Request for Due Process Hearing with the Office of Administrative Hearings, naming Del Mar Union School District. On August 24, 2015, the parties filed a Motion to Advance Due Process Hearing Timeline, as the parties have agreed to waive the resolution session and proceed to mediation and hearing.

APPLICABLE LAW

A local educational agency is required to convene a meeting with the parents and the relevant members of the Individualized Education Program 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) (2006)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 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).)

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 must be in writing and signed by all parties.

¹ Unless otherwise stated, all references are to the 2006 edition of the Code of Federal Regulations.

DISCUSSION

In this matter, the parties have agreed to waive resolution session process and proceed to hearing. The parties have submitted a written agreement that waives the resolution session and requests that OAH move forward the 45-day decision timeline. Accordingly, the parties' request is granted.

ORDER

1. The parties' motion to advance the due process hearing timeline is granted.
2. All presently scheduled mediation, prehearing conference and hearing dates are vacated.
3. OAH shall issue a scheduling order that sets mediation, prehearing conference and hearing dates based on a decision timeline that commences on August 24, 2015.

DATE: August 24, 2015

/s/

PETER PAUL CASTILLO
Presiding Administrative Law Judge
Office of Administrative Hearings