

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

ENCINITAS UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2015110922

ORDER GRANTING REQUEST FOR
MEDIATION IN LIEU OF
RESOLUTION SESSION

Student filed a request for due process hearing, naming the Encinitas Unified School District, with the Office of Administrative Hearings on November 16, 2015. On December 1, 2015, the parties filed a notice of waiver of resolution session and a request to calendar mediation in lieu of resolution session. The parties do not seek to advance the 45-day time line for a hearing and issuance of a written decision.

APPLICABLE LAW, DISCUSSION AND ORDER

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); Ed. Code, § 56501.5, subd. (a).) 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); § 56501.5, subd. (b)) or if the parent and school district agree to use mediation instead of a resolution session (*Id.* at § 300.510 (a)(3)(ii); § 45401.5, subd. (b)). 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); 56501.5, subd. (d)(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); also see 56501.5, subd. (d).)

Here, the parties requested date of December 16, 2015, puts the mediation on the 30th day of the resolution session time line. However, the parties do not request an advancement of the 45-day time line for a due process hearing. Accordingly, their request is granted and mediation is set for December 16, 2015. The 45-day time line is not advanced.

IT IS SO ORDERED.

DATE: December 9, 2015

/s/

BOB N. VARMA
Division Presiding Administrative Law Judge
Office of Administrative Hearings