

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2016020455

ORDER DENYING REQUEST TO
ADVANCE MEDIATION DATE

On February 4, 2016, Parent contacted the Office of Administrative Hearings to ascertain the mediation date in this matter. It was discovered at that point by Parent, and OAH, that Student's counsel, while having served the Los Angeles Unified School District, had failed to file the complaint with OAH. On February 5, 2016, Student's counsel, Mr. Guy A. Leemhuis, filed the complaint in this matter. In the cover letter counsel indicated that the parties had waived the resolution session and wished to proceed to mediation. Counsel requested that OAH advance the date of the mediation, presumably within the 30-day resolution session time period, from the date of filing of the complaint with OAH.

APPLICABLE LAW, DISCUSSION AND ORDER

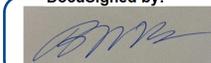
A school district, or local education agency, must convene a meeting to discuss the issues raised in a due process complaint in order to attempt to resolve the dispute. (34 C.F.R. § 300.510 (a)(1),(2).) This meeting is commonly known as a resolution session. A resolution session need not be held if the 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. However, a waiver of the resolution session period and request to advance dates must be in writing and signed by at least one representative for each party.

Here, in an effort to accommodate the parties, OAH staff asked Mr. Leemhuis if the parties had agreed upon a date for mediation, in lieu of resolution session. Mr. Leemhuis informed OAH that the parties had not discussed a date. Because Mr. Leemhuis is unwilling to make the effort to obtain a mutually agreeable mediation date from Los Angeles Unified, OAH is unwilling to randomly assign a mediation date on which one or both parties may be unavailable. Accordingly, Student's request to advance mediation in this matter is denied. Should the parties reach agreement on a mediation date earlier than the currently assigned mediation date, they may submit a joint request.

IT IS SO ORDERED.

DATE: February 11, 2016

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