

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT on behalf of STUDENT,

v.

INGLEWOOD UNIFIED SCHOOL  
DISTRICT.

OAH CASE NO. 2009040743

ORDER DENYING STUDENT'S  
REQUEST TO ORDER RESOLUTION  
SESSION OR DISTRICT RESPONSE  
TO COMPLAINT

On April 16, 2009, attorney Janeen Steel, on behalf of Student, filed a Due Process Hearing Request (complaint) against the Inglewood Unified School District (District).<sup>1</sup>

On May 5, 2009, Student filed a motion for an order that the District convene a resolution session and that the District respond to Student's complaint. Student asserts that the District has not convened a resolution session or submitted a response to the complaint. The District has not submitted a response to Student's motion.

APPLICABLE LAW

The Individuals with Disabilities Education Improvement Act (IDEIA) and state law regulating special education administrative proceedings require that, when parents file a due process complaint, within 15 days of receiving notice of such complaint, the local education agency must convene a resolution session. (20 U.S.C. § 1415(f)(1)(B)(i)(I)<sup>2</sup>; 34 C.F.R. § 300.510(a) (2006); Ed. Code, § 56501.5, subd. (a)(1).) The purpose of the resolution session is to permit the parents of the child with special needs to discuss their complaint, and permit the local education agency to resolve the matter. (§ 1415(f)(1)(B)(i)(IV); 34 C.F.R. § 300.510(a)(2) (2006); Ed. Code, § 56501.5, subd. (a)(4).) The local education agency has 30 days from receipt of the complaint to reach a resolution. (§ 1415(f)(1)(B)(ii); 34 C.F.R. § 300.510(b)(1) (2006); Ed. Code, § 56501.5, subd. (c).) 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) (2006).) If the local education agency fails to hold the resolution

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<sup>1</sup> A request for a due process hearing under Education Code section 56502 is the due process complaint notice required under Title 20 United States Code section 1415(b)(7)(A).

<sup>2</sup> All statutory citations are to Title 20 United States Code unless otherwise noted.

session within 15 days from its receipt of the complaint, the parent may request that the hearing office begin the 45-day hearing timeline. (34 C.F.R. § 300.510(b)(5) (2006).)

Section 1415(c)(2)(B)(ii), and California Education Code section 56502, subdivision (d)(2) require a party receiving a complaint to send a response to the complaint to the filing party within 10 days after the receipt of the complaint. (See also 34 C.F.R. § 300.508(e) and (f) (2006).) Further, within this ten day period, pursuant to Section 1415(f)(1)(B)(i)(I), for local education agencies that have not sent a prior written notice to the parent regarding the subject matter contained in the complaint notice, the local educational agency shall send to the parent a response that shall include:

- (1) an explanation of why the agency proposed or refused to take the action raised in the complaint;
- (2) a description of other options that the IEP Team considered and the reasons why those options were rejected;
- (3) a description of each evaluation procedure, assessment, record, or report the agency used as the basis for the proposed or refused action; and
- (4) a description of the factors that are relevant to the agency's proposal or refusal.

## DISCUSSION

### *Resolution Session*

Student requests that the Office of Administrative Hearings (OAH) order the District to convene a resolution session. The IDEIA and Education Code section 56501.5 create the obligation of a local education agency to convene a resolution session within 15 days of its receipt of the complaint. However, neither the IDEIA nor California law granted an administrative law judge the authority to order a local educational agency to convene a resolution meeting if the local education agency failed to do so. Pursuant to Education Code section 56501.5, subdivision (e)(2), a student's remedy for a local education agency's failure to hold a timely resolution session is to request that OAH immediately begin the 45-day hearing timeline. Thus, the IDEIA and Education Code section 56502 do not give OAH the authority to require the District to convene a resolution session as requested by Student.

### *Response to the Complaint*

Student requests that OAH order the District to file a response to Student's complaint. While the IDEIA and Education Code section 56502 create the obligation of a local education agency to send a parent a response after a parent files a due process complaint, neither grants an administrative law judge the authority to order a local educational agency to file a response. This is in contrast to Section 1415(c)(2)(D) that requires an administrative law judge to evaluate the sufficiency of a due process complaint if a timely notice of

insufficiency is filed. Thus, the IDEIA and Education Code section 56502 do not give OAH the authority to require the District to file a response.<sup>3</sup>

ORDER

1. Student's motion to order the District to hold a resolution session is denied.
2. Student's motion to order the District to respond to the complaint is denied.

Dated: May 15, 2009

/s/

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PETER PAUL CASTILLO  
Administrative Law Judge  
Office of Administrative Hearings

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<sup>3</sup> A local education agency's failure to comply with the IDEIA may subject the agency to a compliance complaint by the parent to the California Department of Education. (*See*, Ed. Code, § 56045.)