

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

VALLEJO CITY UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2015110372

ORDER RESETTING PROCEDURAL
TIMELINES AND DENYING
REQUEST TO RESET HEARING
DATES

On November 5, 2015, Student filed with the Office of Administrative Hearings a Request for Due Process Hearing (complaint) naming Vallejo City Unified School District. On November 12, 2015, Vallejo filed a “Notification to OAH of Date Petitioner Served Complaint on District” asking that all dates in this matter “be calculated or re-calculated” based on a filing date of November 6, 2015, the date Student served Vallejo with her complaint. This notification is deemed a request to reset the procedural timelines in this matter.

On November 13, 2015, Student filed a Response in opposition to Vallejo’s request to reset timelines, and Vallejo filed a Reply. All pleadings were supported by declarations under penalty of perjury.

APPLICABLE LAW

The Individuals with Disabilities Education Act of 2004 (20 U.S.C. § 1400, et. seq.) provides that a party may not have a due process hearing until the notice of a due process hearing request meets the specifications listed in Section 1415(b)(7)(A). (20 U.S.C. § 1415(b)(7)(B).) Further, Section 1415(c)(2)(A) requires the party requesting the due process hearing serve a copy of the complaint on the opposing party.

Title 34 Code of Federal Regulations part 300.515(a)(1) (2006), and Education Code sections 56502, subdivision (f), and 56505, subdivision (f), require that the hearing be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted. Speedy resolution of the due process hearing is mandated by law and continuance of due process hearings may be granted only upon a showing of good cause. (Ed. Code, § 56505, subd. (f).)

DISCUSSION

On November 5, 2015, Student filed her complaint with OAH with a proof of service showing that she served Anne Sherlock, Attorney at Law. Although Student believed Ms. Sherlock was acting in the capacity as attorney for Vallejo as of November 5, 2015, Student did not have confirmation of this. Ms. Sherlock did not file a Notice of Representation in this matter until November 10, 2015. Student did not serve Vallejo directly until November 6, 2015.¹ Therefore, this matter shall be deemed filed as of November 6, 2015, for the calculation of all procedural timelines. However, given the one day difference in filing date, there is no need to recalculate any of the dates previously set in this matter.

ORDER

1. Vallejo's request to reset procedural timelines is granted.
2. The procedural timelines in this matter shall be based on the filing date of November 6, 2015.
3. Vallejo's request to reset hearing dates is denied.
4. All dates in this matter remain as previously set.

DATE: November 17, 2015

/s/

THERESA RAVANDI
Administrative Law Judge
Office of Administrative Hearings

¹ Student served Vallejo's Director of Special Education after business hours on November 5, 2016. Therefore, service was effective as of the next business day.