

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. FOLSOM CORDOVA UNIFIED SCHOOL DISTRICT,	OAH Case No. 2015110595
FOLSOM CORDOVA UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2015090251 ORDER RE-SCHEDULING TIMELINES FROM SERVICE OF COMPLAINT

On September 4, 2015, Folsom Cordova Unified School District filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH case number 2015090251 (District's Case), naming Student.

On November 16, 2015, Student filed a Request for Due Process Hearing in OAH case number 2015110595 (Student's Case), naming Folsom Cordova. OAH issued a Scheduling Order setting mediation, prehearing conference and due process hearing based upon the November 16, 2015 filing date of Student's complaint.

On November 20, 2015, OAH issued an order: consolidating the two cases; ordering the consolidated matter to proceed on the dates set in OAH Case Number 2015110595 (Student's case); and ordering that the 45-day timeline for issuance of the decision in the consolidated cases shall be based on the date of the filing of the complaint in OAH Case Number 2015110595 (Student's Case).

On November 23, 2015, District filed a Notice, including a declaration under penalty of perjury, establishing that it had not been served with a copy of Student's complaint until November 17, 2015, the day after filing, and seeking that the case be re-scheduled in accordance with the date it received Student's complaint. OAH has received no opposition.

APPLICABLE LAW

Education Code, section 56505, subdivision (f) (3) states that a due process hearing decision shall be mailed to all parties to the hearing not later than 45 days after the expiration of the 30-day period pursuant to subdivision (c) of Section 56501.5. Education Code, section 56501.5, subdivision (c), states that if the local educational agency has not resolved the due process hearing issue to the satisfaction of the parents within 30 days of the receipt of the due process hearing request notice, the due process hearing may occur, and that the timeline for issuing a final decision under paragraph (3) of subdivision (f) of Section 56505 begins at the expiration of this 30-day period.

DISCUSSION AND ORDER

Pursuant to the applicable law cited above, the timeline for issuance of a decision in a due process matter is calculated from the date of receipt of a due process complaint, and not the date of filing. Here, District has established by competent evidence, undisputed by Student, that it did not receive Student's complaint in OAH Case Number 2015110595 until November 17, 2015, although the complaint had been filed the previous day. Therefore, the timelines in Student's case, OAH Case Number 2015110595, which now govern both consolidated matters, shall be calculated from November 17, 2015. OAH will issue a new scheduling order consistent with this determination.

IT IS SO ORDERED.

DATE: December 2, 2015

/s/

JUNE R. LEHRMAN
Presiding Administrative Law Judge
Office of Administrative Hearings