

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

REDLANDS UNIFIED SCHOOL  
DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NO. 2011010237

ORDER DENYING MOTION TO  
QUASH, RESETTING 45-DAY  
TIMELINE FOR ISSUANCE OF  
DECISION AND GRANTING  
REQUEST FOR ADDITIONAL  
HEARING DAYS

On January 5, 2011, attorney Vivian E. Billups filed with the Office of Administrative Hearings (OAH) a Due Process Hearing Request (complaint) on behalf of Redlands Unified School District (District) against Student. Ms. Billups served a copy of the complaint on attorney Mark Woodsmall, who had represented Student in a prior matter against the District.

On January 12, 2011, Pablo R. Escobar, from Mr. Woodsmall's law office, filed on behalf of Student, a motion to quash service of the complaint because the District failed to serve a copy of the complaint on Parents. On January 18, 2011, the District filed an opposition, which stated that the District served a copy of the complaint on Parents on January 13, 2011, and also requested additional hearing days as this matter is presently set for only one day of hearing. On January 20, 2011, Student filed a response that acknowledged that the District served Parents.

APPLICABLE LAW

The Individuals with Disabilities Education Improvement Act of 2004 (§ 1400, et. seq.; (hereafter IDEA))<sup>1</sup> 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 title 20 United States Code section 1415(b)(7)(A). (§ 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, part (a)(1), and Education Code sections 56502, subdivision (d), and 56505, subdivision (f), require that the hearing be

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<sup>1</sup> All statutory citations are to title 20 United States Code, unless otherwise noted.

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

Student's motion to quash is a matter of form over substance as the District reasonably believed that Mr. Woodsmall continued to represent Student when it served the complaint on Mr. Woodsmall. The District based its decision on Mr. Woodsmall's prior legal representation and his filing of a compliance complaint with the California Department of Education regarding the District's failure to file a due process hearing request regarding Parents' request for an independent educational evaluation. While the District should have concurrently served a copy of the complaint on Parents, Mr. Escobar should have contacted Ms. Billups first to remedy the situation, and then requested that the Office of Administrative Hearings (OAH) reset the decision timeline, instead of filing the motion to quash.

Because the District served a copy of the complaint on Parents on January 13, 2011, by overnight delivery, the 45-day timeline for OAH to issue a decision commenced on January 14, 2011, the date of Parents' receipt of the complaint. Additionally, the District established good cause for additional hearing days due to the issues raised in the complaint. Accordingly, the prior scheduling dates are vacated as Parents received a copy of the complaint on January 14, 2011, and cause exists for additional days of hearing.

## ORDER

1. Student's motion to quash is denied.
2. All existing scheduling dates on this matter are vacated.
3. The initial date of filing on this matter is revised to January 14, 2011.
4. OAH is directed to reschedule mediation and hearing dates pursuant to this Order, and schedule this matter for four days of hearing.

Dated: January 24, 2011

/s/  
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PETER PAUL CASTILLO  
Administrative Law Judge  
Office of Administrative Hearings