

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. 2009051049

ORDER RESETTING 45-DAY
TIMELINE FOR ISSUANCE OF
DECISION

On May 18, 2008, Parent, on behalf of Student, filed with the Office of Administrative Hearings (OAH) a Due Process Hearing Request (complaint) against the Los Angeles Unified School District (District). On July 2, 2009, the District filed a request to reset the decision timeline because it did not receive a copy of Student's complaint until June 26, 2009. Student did not submit a response to the District's motion.

APPLICABLE LAW

The Individuals with Disabilities Education Improvement Act of 2004 (§ 1400, et. seq. (hereafter IDEA))¹ 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 (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).)

¹ All statutory citations are to Title 20 United States Code, unless otherwise noted.

DISCUSSION

Student's complaint was not accompanied with proof that Student served a copy of the complaint on the District. The District represented that it received the complaint on June 26, 2009, when OAH provided the District with a copy of the complaint. Student did not serve a copy of the complaint on the District when Student filed the complaint with OAH, so there is no evidence that Student served the complaint on District prior to June 26, 2009. Therefore, the 45-day timeline, described above, commenced on June 26, 2009, (Ed. Code, § 56502, subd. (f)) when the District received a copy of Student's due process notice.

ORDER

1. The 45-day timeline shall be reset and commenced on June 26, 2009.
2. All dates set in this matter are vacated. OAH will issue a new scheduling order.

Dated: July 9, 2009

/s/

PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings