

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT on behalf of STUDENT,

v.

BENNETT VALLEY UNION SCHOOL
DISTRICT.

OAH CASE NO. 2010031156

ORDER GRANTING DISTRICT'S
REQUEST TO RESET TIMELINE

On March 17, 2010 Student filed a Request for Due Process Hearing (complaint) with the Office of Administrative Hearings (OAH), naming Bennett Valley Union School District (District) as respondent.

On March 29, 2010, Counsel for the District, provided OAH with its Notice of Representation, and made a written request that the statutory timeline and Scheduling Order be vacated and reset upon the District being served with a copy of Student's complaint.

On April 1, 2010, Student filed an opposition to revising the hearing date, and on April 2, 2010, the District filed a response to Student's opposition.

APPLICABLE LAW AND DISCUSSION

The party initiating the Request for Due Process Hearing by filing a written request shall provide the other party to the hearing with a copy of the request at the same time the request is filed with the Superintendent (OAH). (Ed. Code, § 56502, subd. (c)(1).)

Prior to a party invoking his/her right to an impartial due process hearing, the local educational agency shall convene a resolution session...in accordance with subparagraph (B) of paragraph (1) of subsection (f) of Section 1415 of Title 20 of the United States Code. (Ed. Code, § 56501.5 subd. (a).)

The service of the Request for Due Process Hearing also initiates other mandatory timelines including the fifteen day time limit to file a Notice of Insufficiency (Ed. Code, § 56502 subd.(d)(1), and the 45 day timeline for rendering a final administrative decision. (Ed. Code, § 56505, subd. (f)(3).)

In this matter, Counsel for the District indicates that Student did not serve a copy of the complaint on the District when it filed the complaint with OAH on March 17, 2010. Student's documents filed with OAH do not include a Proof of Service, nor does her opposition statement claim that she ever served the District with a copy of the complaint.

The District received a copy of the complaint on March 29, 2010. Therefore, the District's request to vacate the existing timeline, mediation, and hearing dates, is granted.

ORDER

1. The District's request to vacate and restart the timeline is granted.
2. All existing scheduling dates on this matter are vacated.
3. The initial date of filing on this matter is revised to March 29, 2010.
4. OAH is directed to reschedule mediation and hearing dates pursuant to this Order.

Dated: April 06, 2010

/s/

JUDITH PASEWARK
Administrative Law Judge
Office of Administrative Hearings