

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL  
DISTRICT, LOS ANGELES COUNTY  
DEPARTMENT OF MENTAL HEALTH

OAH CASE NO. 2011080612

ORDER GRANTING REQUEST TO  
RESET TIMELINES AND VACATING  
DATES

On August 15, 2011, Student filed a Request for Mediation and Due Process Hearing (complaint) with the Office of Administrative Hearings (OAH) naming the Los Angeles Unified School District (District) and Los Angeles County Department of Mental Health (DMH). Student's complaint was dated August 8, 2011, and included a statement of service on LAUSD and DMH by first class mail on that date signed by Student's parent. DMH filed a response to the complaint on August 25, 2011, which included a proof of service by facsimile on OAH, LAUSD, and Student's parents.

On September 16, 2011, Lisa Kendrick, Administrative Coordinator for the Due Process Unit of the Division of Special Education for the District filed a request with OAH to reset the mediation and hearing dates on the basis that District did not receive the complaint until September 15, 2011. District's request was served on Student and DMH. Neither Student nor DMH opposed District's request. For the reasons discussed below, District's request is granted and all dates are vacated and will be reset.

APPLICABLE LAW

A local educational agency (LEA) is required to convene a resolution meeting with the parents and the relevant members of the Individualized Education Program (IEP) team within 15 days of receiving notice of the Student's complaint. (20 U.S.C. § 1415(f)(1)(B)(i)(I); 34 C.F.R. § 300.510(a)(1) (2006); Ed. Code § 56501.5.) If the parents do not participate in the resolution session, and it has not been otherwise waived by the parties, a due process hearing shall not take place until a resolution session is held. (34 C.F.R. § 300.510(b)(3) (2006).) A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted. (34 C.F.R. § 300.515(c); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f).)

## DISCUSSION AND ORDER

The District asserts that it did not receive a copy of the complaint until September 15, 2011. The statement of service incorporated in Student's complaint reflects that the complaint was served by mail on August 8, 2011. In addition, on August 17, 2011, OAH served the initial scheduling order to the District and other parties via successful facsimile *and* U.S. Mail and on August 25, 2011. Also, DMH served its response to the complaint on LAUSD. The scheduling order and DMH's response to the complaint should have alerted the District that the case was pending before OAH.

The scheduling order included a mediation date of September 21, 2011, which District cancelled on September 15, 2011, on the basis that it had not received the complaint. District does not mention the scheduling order or DMH's response in its request to reset timelines or explain the circumstances by which it received the complaint on September 15, 2011.

Student properly served the complaint on District. However, because District contends that a resolution session has not occurred, under §300.510(b)(3), as discussed above, the due process hearing may not go forward until such a resolution session is held, or waived in writing. Additionally, neither Student nor DMH opposed District's request to reset timelines.

Accordingly, District's request to reset timelines is granted. The previous dates shall be reset. OAH shall issue a new scheduling order based upon the September 15, 2011 date of receipt by District.

IT IS SO ORDERED.

Dated: September 23, 2011

/s/

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ADRIENNE L. KRIKORIAN  
Administrative Law Judge  
Office of Administrative Hearings