

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

NATOMAS UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2012010014

ORDER RESETTING 45-DAY
TIMELINE FOR ISSUANCE OF
DECISION

On January 3, 2012, Student, through counsel, filed with the Office of Administrative Hearings (OAH) a Request for Due Process Hearing that named the Natomas Unified School District (District). On January 4, 2012, OAH issued the initial Scheduling Order in the case, setting the following dates: mediation for February 7, 2012, a prehearing conference for February 22, 2012, and a due process hearing for February 28, 2012.

On January 10, 2012, counsel for the District filed with OAH a Notice of Insufficiency, with a supporting declaration. The Notice of Insufficiency informs that the District received the OAH Scheduling Order on January 4, 2012, but has not received service of the Request for Due Process Hearing. On January 12, 2012, OAH issued an Order that ordered Student's counsel to serve a copy of the complaint on the District's legal counsel. On January 24, 2012, Student served a copy of the complaint on the District's counsel.

APPLICABLE LAW

The Individuals with Disabilities Education Improvement Act of 2004 (20 U.S.C. § 1400, et. seq. (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 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) (2006), 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

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

and continuance of due process hearings may be granted only upon a showing of good cause. (Ed. Code, § 56505, subd. (f).)

DISCUSSION

The parties do not dispute that Student did not serve a copy of the complaint on the District until January 24, 2012. Therefore, the 45-day timeline, described above, commenced on January 24, 2012, when the District received a copy of Student's due process notice. (Ed. Code, § 56502, subd. (f))

ORDER

The 45-day timeline commenced on January 24, 2012, and shall be reset accordingly. All previously scheduled hearing dates are vacated. OAH shall serve the parties with a new scheduling order based on the new timeline.

Dated: January 30, 2012

/s/

PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings