

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

WALNUT VALLEY UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2012030746

ORDER RESETTING 45-DAY
TIMELINE FOR ISSUANCE OF
DECISION

On March 20, 2012, Father,¹ on behalf of Student, filed with the Office of Administrative Hearings (OAH) a Due Process Hearing Request (complaint) against the Walnut Valley Unified School District (District). On March 21, 2012, OAH served the parties with a scheduling order setting the matter for hearing. On April 10, 2012, the District filed a request to reset the decision timeline because it did not receive a copy of Student's complaint until April 10, 2012, despite OAH's March 23, 2012 order that Student serve a copy on the District's legal counsel by March 27, 2012. Student did not file a response.

APPLICABLE LAW

The Individuals with Disabilities Education Improvement Act of 2004 (20 U.S.C. § 1400, et. seq. (IDEA))² 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 and continuance of due process hearings may be granted only upon a showing of good cause. (Ed. Code, § 56505, subd. (f).)

¹ Student's Father was licensed to practice law in California, but presently inactive.

² All statutory citations are to title 20 United States Code, unless otherwise noted.

DISCUSSION

OAH's March 23, 2012 order stated that Student's Father was to serve a copy of the complaint on the District's legal counsel because a copy was not served on the District when served on OAH. The District's motion established that it first received Student's complaint on April 10, 2012, due to Student's failure to comply with the March 23, 2012 order. Therefore, the 45-day timeline, described above, commenced on April 10, 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 April 10, 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: April 23, 2012

/s/

PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings