

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

FRESNO UNIFIED SCHOOL DISTRICT.

OAH Case No. 2014110130

ORDER DENYING REQUEST TO  
VACATE DATES

On October 27, 2014, Student filed a Request for Due Process Hearing (complaint) Fresno Unified School District with a proof of service via facsimile. The proof of service demonstrates that the complaint was served upon the District superintendent. On November 5, 2014, Lang, Richert & Patch, Attorneys at Law, filed a letter asking Office of Administrative Hearings to vacate all dates and reset timelines because “their client” did not receive a copy of the complaint from Student. The firm has not filed a notice of representation with OAH and, according to the letter; the firm intends to file a Notice of Representation “upon receipt of the Request.” Student did not file a response to District’s letter.

APPLICABLE LAW AND DISCUSSION

The purpose of the Individuals with Disabilities Education Improvement Act (20 U.S.C. 1400 et. seq.) is to “ensure that all children with disabilities have available to them a free appropriate public education.” (20 U.S.C. § 1400(d)(1)(A), (B), and (C); Ed. Code, § 56000.) A party has the right to present a complaint “with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child.” (20 U.S.C. § 1415(b)(6); Ed. Code, § 56501, subd. (a).)

The party requesting a special education due process hearing must provide the opposing party with notice of the complaint by delivering a copy of the complaint to them at the same time it is filed with OAH. (20 U.S.C. § 1415(b)(7)(A); Ed. Code, § 56501.5, subd. (c).) Service may be made via first class mail, facsimile transmission, messenger service, or personal delivery.

The proof of service demonstrates District was served by facsimile on the date the complaint was filed. The averments contained in the letter from a law firm that is not counsel of record in this case, are not grounds to vacate the dates set in the Scheduling Order dated November 5, 2014.

All dates shall proceed as calendared.

IT IS SO ORDERED.

DATE: November 7, 2014

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MARIAN H. TULLY  
Administrative Law Judge  
Office of Administrative Hearings