

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS on behalf of STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2009070306

ORDER DENYING MOTION TO
RESET 45-DAY TIMELINE FOR
ISSUANCE OF DECISION

On July 7, 2009, advocate David Villalobos, on behalf of Student, filed with the Office of Administrative Hearings (OAH) a Due Process Hearing Request (complaint) against the Los Angeles Unified School District (District). On July 23, 2009, Due Process Coordinating Specialist Lisa Kendrick, on behalf of the District, filed a request to reset the decision timeline. Student did not file a response.

APPLICABLE LAW

The Individuals with Disabilities Education Improvement Act of 2004 (§ 1400, et. seq.; (hereafter 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 Title 20 United States Code 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), and Education Code sections 56502, subdivision (d), 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 All statutory citations are to Title 20 United States Code, unless otherwise noted.

DISCUSSION

The District requests that OAH reset the 45-day timeline for the issuance of decision because Student did not serve a copy of the complaint on the District, and that the District did not receive a copy until OAH faxed a copy on July 22, 2009. According to the form complaint prepared by the District for the use by parents, Student's parent signed the form complaint on July 7, 2009, which also acknowledged that she served a copy on the District.² The District's request did not include a declaration under the penalty of perjury that the District did not receive a copy of the complaint from either Student's parent or Mr. Villalobos. Therefore, the District did not establish that Student did not serve a copy of the complaint on the District.

ORDER

The District's motion to reset the 45-day timeline for issuance of decision is denied.

Dated: August 6, 2009

/s/

PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings

² Unlike the form complaint used by the District, the form complaint for parents presently used by OAH has a separate signature space for the person requesting a due process hearing and for the statement of service.