

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. 2011070562

ORDER RESETTING 45-DAY
TIMELINE FOR ISSUANCE OF
DECISION

On July 13, 2011, Parents, 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 18, 2011, OAH served the parties with a scheduling order setting the matter for hearing. On August 11, 2011, the District filed a request to reset the decision timeline because it did not receive a copy of Student's complaint until August 11, 2011. 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)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 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

Student's complaint does not include a proof of service that Parents served the District with a copy of the complaint on or after July 13, 2011. The District established that it first received Student's complaint on August 10, 2011.² Therefore, the 45-day timeline, described above, commenced on August 10, 2011, when the District received a copy of Student's due process notice. (Ed. Code, § 56502, subd. (f))

ORDER

The 45-day timeline commenced on August 10, 2011 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: August 18, 2011

/s/

PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings

² The District does not explain why it waited three weeks to inform OAH that it had not been served with a copy of Student's complaint after it received the July 18, 2011 scheduling order, which put the District on notice that Student had filed a complaint against the District.