

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

PLUMAS UNIFIED SCHOOL DISTRICT,
PLUMAS COUNTY OFFICE OF
EDUCATION AND PLUMAS SPECIAL
EDUCATION LOCAL PLANNING AREA.

OAH CASE NO. 2011120543

ORDER GRANTING REQUEST TO
ADVANCE HEARING DATES

On December 16, 2011, Student filed a Due Process Hearing Request (complaint) naming the Plumas Unified School District (District). On December 30, 2011, the District timely filed a Notice of Insufficiency (NOI) as to Student's complaint. The Office of Administrative Hearings (OAH) granted the District's NOI on January 4, 2012, and gave Student 14 days to file an amended complaint.

Student filed an amended complaint January 18, 2012, against the District, Plumas County Office of Education (PCOE) and Plumas Special Education Local Planning Area (SELPA). On January 31, 2012, the District, PCOE and SELPA timely filed a Notice of Insufficiency (NOI) as to Student's amended complaint. On February 2, 2012, OAH issued an order that found Issues 3, 4 and 6 of Student's amended complaint to be sufficient, and Issues 1, 2, 5 and 7 to be insufficient.

On February 1, 2012, Student filed a motion to advance the 45-day hearing timeline line because the District, PCOE and SELPA failed to convene a resolution session within 15 days of their receipt of Student's complaint. The District, PCOE and SELPA did not submit a response.

APPLICABLE LAW

A local educational agency (LEA) is required to convene a meeting with the parents and the relevant members of the Individualized Education Program (IEP) team within 15 days of receiving notice of the student's complaint. (20 U.S.C. § 1415(f)(1)(B)(i)(I); 34 C.F.R. § 300.510(a)(1)(2006).¹) The resolution session need not be held if it is waived by

¹ All subsequent references to the Code of Federal Regulations are to the 2006 version.

both parties in writing or the parties agree to use mediation. (34 C.F.R. § 300.510(a)(3).) If the parents do not participate in the resolution session, and it has not been otherwise waived by the parties, a due process hearing shall not take place until a resolution session is held. (34 C.F.R. § 300.510(b)(3).) If the LEA does not hold a resolution session within 15 days of receipt of the complaint, the parent may request that the hearing office begin the 45-day hearing timeline. (34 C.F.R. §§ 300.510(b)(5).) A due process hearing must be conducted and a decision rendered within 45 days of the expiration of the time to conduct the resolution session, unless an extension is granted for good cause. (34 C.F.R. §§ 300.510(b) & 300.515(a); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3).)

DISCUSSION

In this matter, the District attempted to arrange a resolution session in response to Student's December 16, 2011 complaint. However, Student established in his motion that the District, PCOE and SELPA did not attempt to arrange a resolution session in response to the amended complaint. The Individuals with Disabilities Education Act (IDEA) does not provide an exception for the convening of a resolution session for amended complaints as the IDEA requires the resolution session in response to any complaint a student files against a LEA. A LEA's failure to hold a resolution session, including for an amended complaint, permits a parent to request that OAH advance the 45-day hearing timeline. Accordingly, Student's motion to advance the 45-day hearing timeline is granted as the District, PCOE and SELPA failed to take any steps to convene a resolution session within 15 days of their receipt of Student's complaint.

ORDER

1. Student's motion to advance the 45-day hearing timeline is granted
2. All previously set dates in this matter are vacated.
3. The timelines for hearing established pursuant to Title 20 United States Code section 1415(f)(1)(B) shall recommence on the effective date of this order. OAH shall send out a new scheduling order.

Dated: February 10, 2012

/s/

PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings