

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LATON UNIFIED SCHOOL DISTRICT.

OAH CASE NO. 2012020460

ORDER RESETTING 45-DAY
TIMELINE FOR ISSUANCE OF
DECISION

On February 10, 2012, Parent, on behalf of Student, filed a Request for Due Process Hearing (complaint) with the Office of Administrative Hearings (OAH), naming the Laton Unified School District (District). On February 15, 2012, OAH issued the initial Scheduling Order in the case, setting the following dates: mediation for March 20, 2012, a prehearing conference for March 26, 2012, and a due process hearing for April 5, 2012.

On February 17, 2012, counsel for the District filed with OAH a motion to reset timelines for hearing, which included a declaration from Judy Marcum, District administrative secretary, because the District did not receive a copy of the complaint until February 14, 2012. Student did not submit 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

The evidence establishes that the District first received a copy of the complaint on February 14, 2012. Therefore, the 45-day timeline, which commences after the 30-day resolution session period, described above, commenced on February 14, 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 February 14, 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: February 24, 2012

/s/

PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings