

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

HEMET UNIFIED SCHOOL DISTRICT.

OAH CASE NO. 2013090788

ORDER DENYING MOTION TO
DISMISS, ORDERING STUDENT TO
FILE A STATEMENT OF SERVICE,
AND RESETTIMING TIMELINES

Parents on behalf of Student filed a Request for Due Process and Mediation (complaint) on September 23, 2013. The Office of Administrative Hearings (OAH) issued a scheduling order on September 26, 2013. On October 1, 2013, District filed a motion to dismiss the complaint without prejudice. District contends that Student did not serve the complaint on District, that it only learned about the matter when it received the scheduling order from OAH, and that the copy of the complaint provided as a courtesy by OAH was not complete or fully legible. On October 7, 2013, Student filed with OAH another copy of the complaint with OAH, along with a letter to the District transmitting the complaint to the District. Student requested in the letter that District confirm receipt of the complaint. The Statement of Service attached to the complaint is signed, although the signature is illegible. It does not indicate by checking one of the boxes how Student achieved service of the complaint on the District.

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).)

Here, District contends that it did not receive the complaint when it was originally filed, which impacts the applicable timelines for a resolution session and hearing. However, given all the circumstances noted above, dismissal of Student's complaint is premature and therefore District's motion is denied without prejudice.

Student is ordered to file with OAH, and serve on the District, not later than the close of business on October 14, 2013, a completed Statement of Service with a legible signature identifying the means by which Student served District on October 7, 2013.

The original dates set in this matter are vacated and the timelines shall be reset based upon the October 7, 2013 filing date, without prejudice to District's right to seek appropriate relief if it continues to contend that it has not been served with the complaint after meeting and conferring with Student's parents.

IT IS SO ORDERED.

Dated: October 10, 2013

/s/

ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings