

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

OAKLAND UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2014070650

ORDER GRANTING MOTION TO
RESET PROCEDURAL TIMELINES
BASED ON STUDENT'S FAILURE TO
SERVE COMPLAINT ON DISTRICT

On July 10, 2014, Student filed a Request for Due Process Hearing (complaint), naming Oakland Unified School District (District). On July 17, 2014, the Office of Administrative Hearings served on Student and District a Scheduling Order.

On July 22, 2014, District filed a motion to reset the procedural timelines (motion) based on District receiving Student's complaint on July 22, 2014 from the Office of Administrative Hearings. Student did not file any response to District's motion.

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).) The resolution session need not be held if it is waived by 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 is unable to obtain the participation of the parent in the resolution meeting after reasonable efforts have been made and documented, the LEA may, at the conclusion of the 30-day period, request that a hearing officer dismiss the complaint. (34 C.F.R. §300.510(b)(4).)

DISCUSSION

Student's complaint included a Statement of Service, on which Student's parent indicated that a copy of the complaint had been sent by first class mail on July 2, 2014 "to all the named parties and to the Office of Administrative Hearings." District's motion asserts, by representation of District's attorney, that District did not receive Student's complaint until it was sent a copy by the Office of Administrative Hearings on July 22, 2014. Although

District's motion is not supported by a sworn declaration, the case file at the Office of Administrative Hearings reflects that the Office of Administrative Hearings faxed a copy of Student's complaint to District on July 22, 2014. District's counsel's representation that District was not served with Student's complaint by Student's parent is credible.

ORDER

1. District's motion to reset the procedural timelines 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 July 22, 2014 and the Office of Administrative Hearings shall issue a new scheduling order.

IT IS SO ORDERED.

DATE: July 30, 2014

/s/

KARA HATFIELD
Administrative Law Judge
Office of Administrative Hearings