BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2022110638

ORDER GRANTING MOTION TO RESET PROCEDURAL TIMELINES AND DENYING REQUEST FOR CONTINUANCE

DECEMBER 16, 2022

On November 18, 2022, Parent on behalf of Student filed a due process hearing request with the Office of Administrative Hearings, called OAH, naming Los Angeles Unified School District. A due process hearing request is referred to as a complaint.

On December 12, 2022, Los Angeles Unified filed a motion to continue the due process hearing and reset the procedural timelines, based on Student's failure to

properly serve the complaint on Los Angeles Unified until November 30, 2022. Student did not respond to the motion.

APPLICABLE LAW

The Individuals with Disabilities Act, called IDEA, requires that the party filing a complaint provide notice of the complaint to the other party. (20 U.S.C. § 1415(b)(7)(A)(i).) A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted. (34 C.F.R. § 300.515(a); Ed. Code, §§ 56502, subd. (f), and 56505, subd. (f)(3).)

A local educational agency is required to meet with the parents and Student's relevant Individualized Education Program team members within 15 days of receiving Student's complaint. (20 U.S.C. § 1415(f)(1)(B)(i)(I); 34 C.F.R. § 300.510(a)(1) (2006). The meeting called a resolution session, can be waived in writing by both parties or if they agree to use mediation. (34 C.F.R. § 300.510(a)(3).) If the parents do not attend the resolution session, and it was not waived, there is no due process hearing until the resolution session is waived or held. (34 C.F.R. § 300.510(b)(3).) The respondent can request the case be dismissed after the 30-day period, if it documented reasonable efforts to hold the resolution session and the parents did not attend. (34 C.F.R. §300.510(b)(4).) The 45-day timeline for issuing a final decision begins at the expiration of this 30-day period. (Ed. Code, § 56501.5, subd. (c).)

DISCUSSION

Student's complaint included a proof of service which indicated that Student served Los Angeles Unified a copy of the complaint on November 18, 2022, by facsimile number (213) 241-1000. Los Angeles Unified's motion is supported by declaration by a senior office technician with Los Angeles Unified's Due Process Department of the Division of Special Education. The technician declared that the (213) 241-1000 number is not a facsimile number, and only accepts voice messages. Therefore, Los Angeles Unified did not receive a copy of the complaint on November 18, 2022.

The technician further declared that the technician contacted Student's attorney on November 30, 2022, to request a copy of Student's complaint. Student's attorney provided Los Angeles Unified a copy of the complaint on November 30, 2022.

Los Angeles Unified credibly established that it did not receive a copy of Student's complaint until November 30, 2022. The 45-day timeline commenced on November 30, 2022, when Los Angeles Unified received a copy of Student's complaint. Therefore, Los Angeles Unified's motion to reset the procedural timelines is granted, and the applicable timelines in this matter are reset accordingly. All previously set dates are vacated and OAH will issue a new scheduling order.

Consequently, Los Angeles Unified's request to continue the hearing for not less than 12 days is denied as moot.

ORDER

1. Los Angeles Unified's motion to reset the procedural timelines is granted.
2. The 45-day timeline commenced on November 30, 2022, and all applicable timelines shall be reset accordingly. All previously set dates in this matter are vacated. OAH will issue a scheduling order with new dates for prehearing conference and due process hearing.
3. Los Angeles Unified's request for continuance of the due process hearing is denied as moot.

Rommel P. Cruz

Rommel P. Cruz

Administrative Law Judge

Office of Administrative Hearings