

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

WALNUT VALLEY UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2012030746

ORDER DENYING NOTICE OF
INSUFFICIENCY AND ORDERING
STUDENT TO SERVE COMPLAINT
ON DISTRICT

On March 20, 2012 Student's father filed on behalf of Student a request for a due process hearing naming District. Student's father did not include a proof of service on District and no evidence exists that Student ever served District. On March 22, 2012, District filed a notice of insufficiency (NOI) as to the complaint, supported by a sworn declaration from District's counsel. District claims that, although it received a scheduling order from the Office of Administrative Hearings (OAH), District did not receive a copy of the complaint and therefore the complaint should be deemed insufficient.

District's NOI is meritless and premature because an NOI is addressed solely to the allegations of the complaint. The simple problem of not having received the complaint should have been dealt with simply, and through the use of professional courtesy, not through motion practice. Although District spent considerable attorney time on drafting the motion and supporting declaration, nowhere does District demonstrate that it bothered to call Student's parent or OAH to request a copy after receiving the scheduling order. Given that only three days have elapsed since the complaint was filed, the only relief to which District is entitled is a copy of the complaint.

Student is ordered to provide a copy of the complaint to District's attorney of record by no later than the close of business on March 27, 2012 and to simultaneously file a proof of service via facsimile with OAH. All dates remain as scheduled.

Dated: March 23, 2012

/s/

RICHARD T. BREEN
Presiding Administrative Law Judge
Office of Administrative Hearings