

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

WEST CONTRA COSTA UNIFIED  
SCHOOL DISTRICT,

v.

PARENT on behalf of STUDENT.

OAH CASE NO. 2010020428

ORDER DENYING STUDENT'S  
NOTICE OF INSUFFICIENCY OF DUE  
PROCESS COMPLAINT

On February 10, 2010 West Contra Costa Unified School District (District) filed and served a Due Process Hearing Request<sup>1</sup> (complaint) naming Student as Respondent.

On March 5, 2010, Student filed a Notice of Insufficiency (NOI) as to District's complaint. For the reasons stated below, Student's NOI is denied.

APPLICABLE LAW

The named parties to a due process hearing request have the right to challenge the sufficiency of the complaint. 20 U.S.C. § 1415(b) & (c). The party filing the complaint is not entitled to a hearing unless the complaint meets the requirements of section 1415(b)(7)(A).

The complaint is deemed sufficient unless a party notifies the Office of Administrative Hearings and the other party in writing within 15 days of receiving the complaint that the party believes the complaint has not met the notice requirements. 20 U.S.C. § 1415(c)(2)(C); Ed. Code, § 56502, subd. (d)(1).

DISCUSSION

District's complaint was filed on February 10, 2010. The proof of service on District's Complaint indicates it was served by fax, email and U.S. Mail on Student's parent on February 10, 2010. Student's NOI was dated, filed with OAH, and served on March 5, 2010, which is more than 15 days after it received District's complaint. Student's NOI was not filed within the statutorily required timeline. Therefore, District's complaint is deemed sufficient.

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<sup>1</sup> A request for a due process hearing under Education Code section 56502 is the due process complaint notice required under Title 20 United States Code section 1415(b)(7)(A).

ORDER

1. The complaint is deemed sufficient under section 1415(c)(2)(C) and Education Code section 56502, subdivision (d)(1).
2. The prehearing conference and hearing dates in this matter are confirmed.

Dated: April 6, 2010

/s/

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ADRIENNE L. KRIKORIAN  
Administrative Law Judge  
Office of Administrative Hearings