

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

SAN FRANCISCO UNIFIED SCHOOL  
DISTRICT.

OAH CASE NO. 2010060296

ORDER OF DETERMINATION OF  
SUFFICIENCY OF DUE PROCESS  
COMPLAINT

On June 7, 2010, Student's parents on behalf of Student (Student) filed a Due Process Hearing Request<sup>1</sup> (complaint) naming San Francisco Unified School District (District).

On June 25, 2010, the District filed a Notice of Insufficiency (NOI) as to Student's complaint. In the same document, the District also filed a response to the complaint.

APPLICABLE LAW

The named parties to a due process hearing request have the right to challenge the sufficiency of the complaint.<sup>2</sup> The party filing the complaint is not entitled to a hearing unless the complaint meets the requirements of 20 United States Code 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.<sup>3</sup>

DISCUSSION

As stated above, Student's complaint was filed on June 7, 2010. The District's NOI does not state the date on which the District received the complaint. According to the statement of service attached to Student's complaint, Student served the District by fax on June 7, 2010. The District's NOI does not contest that service or allege that the District did not receive the complaint on June 7. Therefore, any NOI by the District should have been

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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).

<sup>2</sup> 20 U.S.C. § 1415(b) & (c).

<sup>3</sup> 20 U.S.C. § 1415(c)(2)(C); Ed. Code, § 56502, subd. (d)(1).

filed within 15 days, on or before June 22, 2010. Instead, the District filed its NOI on June 25, 2010. District's NOI was not filed within the statutorily required timeline, and Student's complaint is thereby deemed sufficient.

#### ORDER

1. The complaint is deemed sufficient under section 1415(c)(2)(C) and Education Code section 56502, subdivision (d)(1).

2. All mediation, prehearing conference, and hearing dates in this matter are confirmed.

Dated: June 30, 2010

/s/

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SUSAN RUFF  
Administrative Law Judge  
Office of Administrative Hearings