

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

FAIRFIELD-SUISUN UNIFIED SCHOOL
DISTRICT AND SOLANO COUNTY
OFFICE OF EDUCATION.

OAH Case No. 2015120311

ORDER GRANTING FAIRFIELD-
SUISUN'S MOTION TO DISMISS;
SETTING PHC AND HEARING
DATES FOR REMAINING PARTIES

On December 7, 2015, Student filed a Request for Due Process Hearing (complaint) naming Fairfield-Suisun Unified School District and Solano County Office of Education. On January 4, 2016, a telephonic prehearing conference was held before Administrative Law Judge Dena Coggins, Office of Administrative Hearings. During the PHC, Andrew Ownby, Executive Director of Pupil Services, appearing on behalf of Fairfield-Suisun Unified School District asserted Student did not serve a copy of the complaint on Fairfield-Suisun as required by federal and state law. Mother indicated she served a copy of the complaint on Solano County Office of Education only. On January 4, 2016, the PHC and hearing dates were vacated, and Mother was ordered to serve a copy of the complaint on Fairfield-Suisun no later than 5:00 p.m. on January 5, 2016. Since the currently set PHC and hearing dates were vacated, the January 4, 2016 order informed the parties to re-file any motions or notices that were pending in the matter.

On January 6, 2016, Student filed a statement of service with OAH indicating that Mother provided a copy of the complaint to all named parties by facsimile transmission on January 5, 2016. On January 7, 2016, Fairfield-Suisun filed a motion to dismiss the matter, alleging Student failed to serve a copy of the complaint on Fairfield-Suisun pursuant to the January 4, 2016 order. OAH received no response to Fairfield-Suisun's motion to dismiss from Student or Solano.

On January 20, 2016, OAH ordered Mother to provide additional information to establish that she served the complaint on Fairfield-Suisun on January 5, 2016. Mother was to provide a copy of the facsimile transmission cover sheet or other relevant documentation with OAH no later than January 25, 2016. Mother did not file any additional information with OAH to establish that she served the complaint on Fairfield-Suisun pursuant to the January 20, 2016 order.

The Individuals with Disabilities Education Act contains procedural safeguards to ensure proper notice of a due process complaint. (15 U.S.C. § 1415(b)(7)(A).) The party filing the due process complaint must provide notice of the due process complaint to all parties named in the complaint. (*Ibid.*)

Mother has failed to establish that she provided a copy of the complaint to Fairfield-Suisun at any time during the pendency of this matter. Accordingly, Fairfield-Suisun's motion to dismiss is granted without prejudice. Fairfield-Suisun is dismissed as party in the above-entitled matter. As stated in the January 4, 2016 order, all parties must re-file motions or notices that were currently pending in this matter as of January 4, 2016.

The matter will be set as follows as to Student and Solano:

Prehearing Conference: February 1, 2016, at 3:00 p.m.

Due Process Hearing: February 8, 2016, at 1:30 p.m., and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

The parties shall immediately notify all potential witnesses of the hearing dates, and shall subpoena witnesses if necessary, to ensure that the witnesses will be available to testify. A witness will not be regarded as unavailable for purposes of showing "good cause" to continue the hearing if the witness is not properly notified of the hearing date or properly subpoenaed, as applicable.

IT IS SO ORDERED.

DATE: January 28, 2016

/s/

DENA COGGINS
Administrative Law Judge
Office of Administrative Hearings