BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

FREMONT UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2020020631

ORDER DENYING STUDENT'S MOTION TO STRIKE DISTRICT'S RESPONSE TO COMPLAINT

APRIL 28, 2020

On April 23, 2020, Student filed with the Office of Administrative Hearings, called OAH, a motion to strike the response of Fremont Unified School District to the complaint filed in this matter. On April 27, 2020, Fremont filed an opposition.

APPLICABLE LAW

After a due process hearing request is filed by a parent and received by the school district, the school district must send the parent a response to the complaint within 10 days, if it had not previously sent a written notice meeting statutory

requirements to the parent regarding the subject matter of the complaint. (20 U.S.C. § 1415(c)(2)(B)(i)(I); 34 C.F.R. § 300.510 (2006).)

DISCUSSION

Student requests an order striking Fremont's response to Student's due process complaint because the response was filed on April 20, 2020, over two months from the date Fremont received a copy of Student's complaint. Fremont contends that it responded to Parent with a statutory prior written notice each time Parent first raised the issues identified in Student's complaint, and only filed its response because Parent made a motion to compel another response. Fremont also argues that Student cites no authority for striking its response, whether late or not.

Student cites no basis for striking a school district's response to a due process complaint if it is filed more than 10 days after the school district received the complaint. Even if OAH was authorized to strike the response, Student did not establish that Fremont had not otherwise responded to Student's claims prior to the filing of the complaint.

Accordingly, the motion to strike is denied.

IT IS SO ORDERED.

DocuSigned by:
Alexa Hohensee
A7D463FF094544B...

Alexa Hohensee

Administrative Law Judge

Office of Administrative Hearings