



THE SECRETARY OF EDUCATION  
WASHINGTON, D.C. 20202

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In the Matter of

**TRUCK DRIVING ACADEMY**

Respondent.

**Docket No. 98-4-SP**  
Student Financial  
Assistance Proceedings

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**ORDER**

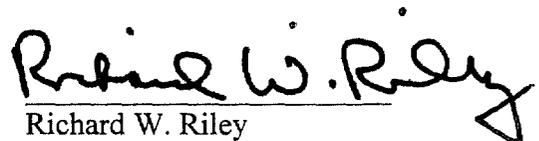
Regulation 34 C.F.R. § 668.119 provides:

(a) Within 30 days of its receipt of the initial decision of the hearing official, a party wishing to appeal the decision shall submit a brief or other written material to the Secretary explaining why the decision of the hearing official should be overturned or modified.

(b) The party appealing the initial decision shall, simultaneously with its filing of the appeal, provide the opposing party with a copy of its brief or other written material.

On October 27, 1998, counsel for the Student Financial Assistance Programs (SFAP), filed a motion to dismiss Respondent's appeal in the above-captioned proceeding, claiming that Respondent failed to comply with the aforementioned regulation. After consideration of both SFAP's motion and Respondent's response, it is apparent that Respondent's appeal should have been filed on September 10, 1998. Instead, Respondent's appeal was not received by the U.S. Department of Education until September 14, 1998. Further, Respondent's appeal was filed untimely on September 14, 1998, and was not properly received by the office of Hearings and Appeals until September 22, 1998. Moreover, Respondent failed to provide SFAP with a copy of its brief *simultaneously* with the filing of its appeal. In accordance with the findings of these violations, SFAP's Motion to Dismiss Respondent's Appeal is hereby granted.

Washington, DC  
December 30, 1998

  
Richard W. Riley

**SERVICE**

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Administrative Judge  
Office of Hearings and Appeals