BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. EL RANCHO UNIFIED SCHOOL DISTRICT, MONTEBELLO UNIFIED SCHOOL DISTRICT AND DOWNEY UNIFIED SCHOOL DISTRICT	OAH CASE NO. 2013040050 ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

On March 29, 2013, Student filed a Due Process Hearing Request[1] (complaint) naming El Rancho Unified School District (ERUSD), Montebello Unified School District, and Downey Unified School District as the respondents.

Twenty-one days after the complaint was filed, on April 19, 2013, ERUSD filed a Notice of Insufficiency (NOI) as to the complaint.

APPLICABLE LAW

The named parties to a due process hearing request have the right to challenge the sufficiency of the complaint.[2] The party filing the complaint is not entitled to a hearing unless the complaint meets the requirements of Title 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.[3]

---

[1] 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).

[2] 20 U.S.C. § 1415(b) & (c).

[3] 20 U.S.C. § 1415(c)(2)(C); Ed. Code, § 56502, subd. (d)(1).

DISCUSSION

The complaint was filed on March 29, 2013. ERUSD's NOI contains no indication of when ERUSD received the complaint, but it acknowledges the complaint was filed with OAH on March 29, 2013. ERUSD's NOI was dated April 19, 2013, which is more than 15 days after the complaint was filed and, in the absence of any contrary indication, deemed received by ERUSD. Thus, ERUSD's NOI was not filed within the statutorily required timeline. Therefore, the complaint is deemed sufficient as to ERUSD.

ORDER

1. The complaint is deemed sufficient as to ERUSD under title 20 United States Code 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: April 22, 2013

/s/

JUNE R. LEHRMAN
Administrative Law Judge
Office of Administrative Hearings