BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. TEHACHAPI UNIFIED SCHOOL DISTRICT.	OAH Case No. 2019051252 ORDER DETERMINING DUE PROCESS COMPLAINT SUFFICIENT

On May 30, 2019, Student filed a Request for Due Process Hearing with the Office of Administrative Hearings, naming Tehachapi Unified School District. On June 20, 2019, Tehachapi filed a Notice of Insufficiency as to Student's complaint.

APPLICABLE LAW

The named parties to a due process hearing request have the right to challenge the sufficiency of the complaint. (20 U.S.C. § 1415(b) & (c).) 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 OAH 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. (20 U.S.C. § 1415(c)(2)(C); Ed. Code, § 56502, subd. (d)(1).)

DISCUSSION

According to the proof of service, Student filed his complaint with OAH and provided Tehachapi with a copy on May 29, 2019. Tehachapi's Notice of Insufficiency confirms Student filed his complaint on May 29, 2019. Student filed his complaint with OAH after the close of business on May 29, 2019, so OAH set the complaint's filing date as May 30, 2019. Tehachapi filed its Notice of Insufficiency with OAH and provided Student with a copy on June 20, 2019, which is more than 15 days after it received the complaint. Tehachapi did not file its Notice of Insufficiency within the legally required time period. Therefore, Student's complaint is sufficient.

ORDER

1. Student's complaint is sufficient under title 20 United States Code section 1415(c)(2)(C) and Education Code section 56502, subdivision (d)(1).

2. The prehearing conference and due process hearing dates in this case remain as scheduled.

DATE: June 21, 2019

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Tara Doss
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TARA DOSS
Administrative Law Judge
Office of Administrative Hearings