BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. KERN COUNTY OFFICE OF EDUCATION, KERN COUNTY SUPERINTENDENT OF SCHOOLS, KERN HIGH SCHOOL DISTRICT, NORRIS SCHOOL DISTRICT, AND PANAMA BUENA VISTA UNION SCHOOL DISTRICT.	OAH Case No. 2017050244 ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

On May 03, 2017, Student filed a Due Process Hearing Request[1] (complaint) with the Office of Administrative Hearings naming Kern County Office of Education, Kern County Superintendent of Schools, Kern High School District, Norris School District, and Panama Buena Vista Union School District. Kern County Office of Education, Kern County Superintendent of Schools, Norris School District, and Panama Buena Vista Union School District (Schools) filed a notice of insufficiency as to Student's complaint on May 18, 2017, at 5:21 p.m.

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

[1] A request for a due process hearing under Education Code section 56502 is the due process complaint notice required under title 20 U.S.C. section 1415(b)(7)(A).

Documents faxed to OAH after business hours, 8:00 a.m. through 5:00 p.m., are deemed filed on the next regular business day. (1 C.C.R. § 1006, subd. (h).).

DISCUSSION

Student's complaint was filed on May 3, 2017. Schools did not state in their NOI when they received Student's complaint, however, Student filed a proof of service with its complaint indicating they served Schools on May 3, 2017. Schools' NOI was dated, filed with OAH, and served on May 18, 2107, at 5:21 p.m. Schools' NOI is deemed filed on May 19, 2017, which is more than 15 days after they received Student's complaint. Schools' NOI was not filed within the statutorily required timeline. Therefore, Student's complaint is deemed sufficient.

ORDER

1. The complaint is deemed sufficient 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.

DATE: May 24, 2017

DocuSigned by:
Linda Johnson
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LINDA JOHNSON
Administrative Law Judge
Office of Administrative Hearings