BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

WALNUT CREEK SCHOOL DISTRICT, WALNUT CREEK INTERMEDIATE SCHOOL AND TICE CREEK SCHOOL,

OAH CASE NUMBER 2023120370

ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT (EXPEDITED ISSUES)

DECEMBER 13, 2023

On December 8, 2023, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Walnut Creek School District, Walnut Creek Intermediate School and Tice Creek School. On December 12, 2023, Walnut Creek School District filed a Notice of Insufficiency as to the complaint, which was amended on December 13, 2023 to be brought on behalf of all respondents.

APPLICABLE LAW

The named parties have the right to challenge the complaint's sufficiency. (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).

Title 20 United States Code section 1415(k)(3) permits a party to request an expedited hearing for specific reasons. Specifically, an expedited hearing can be requested to appeal to appeal a disciplinary change of placement, such as placement in an alternative education setting or a manifestation determination regarding student conduct. This section requires an expedited hearing start within 20 school days from the hearing request. There is no provision for expedited hearings under section 1415(k) to test the complaint's sufficiency. Indeed, there is insufficient time to complete the NOI process in expedited hearings.

DISCUSSION

Student's complaint alleges non- expedited issues which are addressed in a separate Order. The expedited claims addressed in this Order, Student's Issue Number 5 brought against Tice Creek School and Issue Number 2 brought against Walnut Creek Intermediate School allege inappropriate suspensions/discipline. OAH set the expedited mediation for December 21, 2023, the expedited prehearing conference for January 8, 2024 and the expedited due process hearing for January 17 and 18, 2024. Because there is no provision for expedited hearings under section 1415(k) to test the complaint's sufficiency and because there is insufficient time to complete the NOI process in expedited hearings, the complaint is deemed sufficient as to these issues. The

expedited mediation, prehearing conference and due process hearing shall proceed as scheduled.

ORDER

1. The complaint is sufficient under title 20 United States Code section 1415(b)(7)(A)(ii).
2. All expedited mediation, prehearing conference, and hearing dates in this matter are confirmed.

IT IS SO ORDERED.

June Lehrman

June Lehrman
Administrative Law Judge
Office of Administrative Hearings