

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SACRAMENTO COUNTY OFFICE OF
EDUCATION, CALIFORNIA
DEPARTMENT OF EDUCATION, and
CITY UNIFIED SCHOOL DISTRICT.

OAH CASE NO. 2012120710

ORDER OF DETERMINATION OF
SUFFICIENCY OF DUE PROCESS
COMPLAINT

On December 17, 2012, Student filed a Due Process Hearing Request¹ (complaint) with the Office of Administrative Hearings (OAH) naming the Sacramento County Office of Education (SCOE), the California Department of Education, and the Sacramento City Unified School District (District).

On January 2, 2013, SCOE filed a Notice of Insufficiency (NOI) as to Student's complaint. OAH found the complaint sufficient because the NOI was filed more than 15 days after the complaint was filed. On January 3, 2013, the District filed a response to another motion filed by COE, and stated that it was joining in COE's NOI.

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).

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).

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

DISCUSSION

Student's complaint was filed with OAH on December 17, 2012. The proof of service filed with the complaint shows that the District was served via facsimile on December 17, 2012. The District did not join in SCOE's NOI until January 3, 2013, 17 days following December 17, 2012. Although January 1, 2013, was a legal holiday, there is no provision in either the Individuals with Disabilities Education Act or California's implementing statutes that extends the time period for filing an NOI because there is an intervening legal holiday. Accordingly, the complaint is found to be sufficient as it pertains to the District.

ORDER

1. The complaint is deemed sufficient as it pertains to the District 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: January 3, 2013

/s/

REBECCA FREIE
Administrative Law Judge
Office of Administrative Hearings

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