BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2015090260
v.	ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT AND DENYING MOTION TO STRIKE
LOLETA UNION SCHOOL DISTRICT.	

On September 2, 2015, Student filed a due process hearing request[1] (complaint) with the Office of Administrative Hearings naming Loleta Union School District. On December 29, 2015, Student filed a proposed amended complaint (amended complaint). At the prehearing conference held January 4, 2016, leave to file the amended complaint was granted. By order after the prehearing conference and granting leave to amend, dated January 4, 2015, the amended complaint was deemed filed the date of that order.

On January 20, 2016, District filed a notice of insufficiency as to Student's amended complaint. On January 21, 2015, Student filed a motion to strike the notice of insufficiency as untimely.

Notice of Insufficiency

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).)

District received Student's amended complaint of December 29, 2015. District was on notice that OAH granted Student leave to amend by the ALJ's oral order at the PHC on January 4, 2016. Student's amended complaint was deemed filed on January 4, 2016, by an

[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).

order of that same date. District's notice of insufficiency was filed on January 20, 2016, more than 15 days after the complaint was deemed filed, and more than 20 days after District received the amended complaint. District's notice of insufficiency was not filed within the statutorily required timeline. Therefore, Student's complaint is deemed sufficient.

Motion to Strike

Student seeks to strike the opposing party's notice of insufficiency. There are no provisions governing a motion to strike in special education hearings.

Moreover, because District's Notice of Insufficiency was untimely, Student's motion to strike District's notice of insufficiency is moot. It is therefore denied.

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.

3. Student's motion to strike District's notice of insufficiency is denied.

DATE: January 21, 2016

/s/

ALEXA J. HOHENSEE
Administrative Law Judge
Office of Administrative Hearings