BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. LONG BEACH UNIFIED SCHOOL DISTRICT.	OAH Case No. 2016060519 ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

On June 3, 2016, Student filed a Due Process Hearing Request[1] (complaint) with the Office of Administrative Hearings naming Long Beach Unified School District (District). On June 20, 2016, District 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 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).)

DISCUSSION

Student's complaint was filed on June 3, 2016. Student's proof of service demonstrates the complaint was served by facsimile on District and on District's counsel of record in this matter on June 3, 2016. District's NOI was dated, filed with OAH, and served on June 20, 2016, which is more than 15 days after it received Student's complaint. District's NOI was not filed within the statutorily required timeline. Therefore, Student's complaint is deemed sufficient.

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[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

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: June 23, 2016

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Marian H. Tully
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MARIAN H. TULLY
Administrative Law Judge
Office of Administrative Hearings