BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: SAN DIEGUITO UNION HIGH SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH CASE NO. 2013040914 ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

On April 19, 2013, the San Dieguito Union High School District (District) filed a due process hearing request[1] (complaint) naming Parent on behalf of Student.

On May 8, 2013, Student filed a notice of insufficiency (NOI). On May 10, 2013, District filed an opposition to the 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).

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

[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).

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

District's complaint was filed on April 19, 2013, accompanied by a sworn proof of service indicating that the complaint was served on Parent by overnight mail. District's opposition attaches overnight tracking information from the delivery company showing that Parent received the complaint on April 20, 2013. Student's NOI was faxed to OAH on May 8, 2013, which is more than 15 days after she received District's complaint. Student's NOI was not filed within the statutorily required timeline. Therefore, District'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.

Dated: May 10, 2013

/s/

ALEXA J. HOHENSEE
Administrative Law Judge
Office of Administrative Hearings