BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2018051073
v.	ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT
NATOMAS UNIFIED SCHOOL DISTRICT.	

On May 23, 2018, Parent on behalf of Student, filed a due process hearing request[1] (complaint) with the Office of Administrative Hearings naming Natomas Unified School District. Upon review of the complaint, OAH determined that all issues raised mandated an expedited hearing. On May 24, 2018, OAH issued a scheduling order setting expedited due process hearing, scheduling the hearing for June 19 and 26, 2018.

On May 31, 2018, District timely filed a notice of insufficiency as to Student's complaint.

APPLICABLE LAW AND DISCUSSION

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). However, title 20 United States Code section 1415(k)(3) permits a party to request an expedited hearing to appeal a decision regarding 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 to occur within 20 school days of the date the hearing is requested. There is no provision similar to that in title 20 United States Code section 1415(c)(2)(A) for testing the sufficiency of a request for an expedited hearing pursuant to section 1415(k).

Since OAH has determined that all issues in Student's complaint must be heard in an expedited hearing, none of the issues are amenable to a notice of insufficiency. Accordingly, District notice of insufficiency is denied.

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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. District's Notice of Insufficiency is denied as to Student's expedited claims.

2. All mediation, prehearing conference, and hearing dates in this matter are confirmed and shall go forward on the dates set in OAH's May 24, 2018 order setting expedited due process hearing.

DATE: May 31, 2018

DocuSigned by:
Darrell Lepkowsky
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DARRELL LEPKOWSKY
Administrative Law Judge
Office of Administrative Hearings