

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT; SACRAMENTO CITY
SCHOOL DISTRICT

OAH Case No. 2015010421

ORDER DENYING SACRAMENTO
CITY SCHOOL DISTRICT'S NOTICE
OF INSUFFICIENCY AS UNTIMELY

On January 5, 2015, Parent on Student's behalf filed a due process hearing request (complaint), identifying Los Angeles Unified School District and Sacramento City School District as respondents. On February 3, 2015, Sacramento City School 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.¹ 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.²

¹ 20 U.S.C. § 1415(b) & (c).

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

DISCUSSION AND ORDER

Sacramento City School District's NOI was not supported by a declaration under penalty of perjury that established when the district received the complaint. The complaint filed with OAH includes a proof of service establishing that the complaint was personally served on January 5, 2015, and presumably Sacramento City School District received it on that date. In the absence of credible evidence to the contrary, the NOI is untimely because Sacramento City School District did not file it within 15 days from the date it was received. Therefore, Student's complaint is deemed sufficient, and the NOI is denied.

However, Sacramento City School District may refile its NOI if it can establish through credible evidence, including a declaration under penalty of perjury, that it received the complaint within 15 days of February 3, 2015, the date it filed its NOI.

IT IS SO ORDERED.

DATE: February 5, 2015

/s/

ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings