BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
SPECIAL EDUCATION DIVISION
STATE OF CALIFORNIA

In the Matter of: STUDENT Petitioner, v. LODI UNIFIED SCHOOL DISTRICT, Respondent.	OAH CASE NO. N2006120651 **DETERMINATION OF SUFFICIENCY OF REQUEST FOR DUE PROCESS HEARING**

On December 19, 2006, the Office of Administrative Hearings (OAH) received a due process complaint notice (Complaint) from attorney Christian Knox on behalf of Petitioner (Student). On December 28, 2006, OAH received a notice of insufficiency (NOI) regarding the Complaint from attorney David Girard on behalf of Respondent Lodi Unified School District (District).

APPLICABLE LAW

Pursuant to the Individuals with Disabilities Education Improvement Act of 2004 (IDEIA), title 20, United States Code, section 1415(b)(7)(B), a party may not have a due process hearing until the notice of a due process hearing request meets the specifications listed in section 1415(b)(7)(A). Further, sections 1415(c)(2)(A) and (C) were added to allow a party to challenge the sufficiency of the due process notice within 15 days of filing. The following specific subsections apply:

> Section 1415(b)(7)(A)(ii)(I), which provides that the due process complaint notice shall include the name and residence address of the child (or available contact information for a homeless child), and name of the school the child is attending;
>
> Section 1415(b)(7)(A)(ii)(III), which provides that the due process complaint notice shall include "a description of the nature of the problem of the child relating to such proposed initiation or change, including facts relating to such problem;"

Section 1415(b)(7)(A)(ii)(IV), which provides that the due process complaint notice shall include "a proposed resolution of the problem to the extent known and available to the party at the time;"

Section 1415(c)(2)(D), which provides that, within five days of receipt of a timely NOI, the administrative law judge shall make a determination on the face of the notice whether the notification meets the requirements of subsection (b)(7)(A).

Section 1415(c)(2)(E), which provides that a party may amend the Complaint only if the hearing officer grants permission, or as otherwise specified.

Fundamental principles of due process apply to administrative proceedings in special education matters. The respondent is entitled to know the nature of the specific allegations being made against it, such that respondent may be able to prepare a defense. (*Tadano v. Manney* (9th Cir. 1947) 160 F.2d 665, 667; *Hornsby v. Allen* (5th Cir. 1964) 326 F.2d 605, 608.)

DISCUSSION

Student's Complaint contains a relatively clear description of the problems. In particular, the Complaint alleges that the District failed to meet its child find obligation, failed to adequately assess Student for special education, failed to find him eligible for special education, failed to make a referral for mental health services pursuant to Chapter 26.5, failed to provide the parent with a Notice of Procedural Safeguards, and failed to complete an assessment pursuant to a signed assessment plan. The Complaint identifies the time periods for which each problem allegedly occurred, and contains a clear description of the facts relating to the problems. Finally, the Complaint specifically identifies the proposed resolutions Student seeks, including reimbursement for particular expenses. Hence, the Complaint contains sufficient facts to inform the District about what is in dispute and what remedies the Student seeks.

ORDER

The Complaint is sufficient.

Dated: January 3, 2007

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SUZANNE B. BROWN
Administrative Law Judge
Special Education Division
Office of Administrative Hearings