

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENTS on behalf of STUDENT,

v.

TRAVIS UNIFIED SCHOOL DISTRICT.

OAH CASE NO. 2009030262

DETERMINATION OF SUFFICIENCY  
OF DUE PROCESS COMPLAINT

On March 4, 2009, Parents, on behalf of Student, filed a Due Process Hearing Request (complaint) against the Travis Unified School District (District).<sup>1</sup> On March 13, 2009, the District filed a Notice of Insufficiency (NOI) as to Student's complaint.

APPLICABLE LAW

The complaint is deemed sufficient unless the party against whom the complaint has been filed notifies the due process hearing officer of the Office of Administrative Hearings (OAH), and the other party in writing, within 15 days of receiving the complaint, that the party against whom the complaint was filed believes the complaint has not met the notice requirements. (§ 1415(c)(2)(C)<sup>2</sup>; Ed. Code, § 56502, subd. (d)(1).) Section 1415(c)(2)(D) requires that the sufficiency of the complaint be evaluated based on the face of the complaint.

A complaint is sufficient if it contains: (1) a description of the nature of the problem of the child relating to the proposed initiation or change concerning the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education (FAPE) to the child; (2) facts relating to the problem; and (3) a proposed resolution of the problem to the extent known and available to the party at the time. The party against whom the complaint has been filed is entitled to know the nature of the specific allegations being made against it, such that the party 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.)

---

<sup>1</sup> 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).

<sup>2</sup> All statutory citations are to Title 20 United States Code unless otherwise noted.

## DISCUSSION

Student's complaint alleges four issues regarding the District's purported failure to properly and timely assess Student and failure to offer Student an educational program that met his unique needs during the 2006-2007, 2007-2008 and 2008-2009 school years. Student does not allege sufficient facts in each issue because the complaint does not provide any specific dates when the District failed to provide Student with a FAPE. For example, the complaint does not identify when the District provided Parents with an assessment plan and subsequently did not complete timely this assessment. Student does not identify the Individualized Education Programs at issue, such as when the District unilaterally changed Student's eligibility for special education services from autistic like behaviors to mental retardation or failed to offer a behavioral support services.

As discussed above, a responding party is entitled to know the basis of each claim and the nature of the specific allegations being made against it, with respect to each issue or problem, so that the responding party may be able to prepare a response, prepare for a resolution session, or prepare a defense for hearing. For the reasons described above, Student's complaint is insufficient because it does not comply with the requirements of Section 1415(b)(7).

Pursuant to Education Code section 56505, subdivision (e)(6), a parent who is not represented by an attorney may request that OAH provide a mediator to assist the parent in identifying the issues and proposed resolutions that must be included in a complaint. If Parents request the assistance of a mediator in identifying the issues, they should contact OAH immediately in writing.

## ORDER

1. Pursuant to section 1415(c)(2)(D), Student's complaint is insufficiently pled, and the District's notice of insufficiency is granted.
2. Pursuant to section 1415(c)(2)(E)(i)(II), Student shall be permitted to file an amended complaint.<sup>3</sup>
3. The amended complaint shall comply with the requirements of section 1415(b)(7)(A)(ii), and shall be filed not later than 14 days from the date of this order.
4. If Student fails to file a timely amended complaint, the complaint will be dismissed.

---

<sup>3</sup> The filing of an amended complaint will restart the applicable timelines for a due process hearing.

5. All dates previously set in this matter are vacated.

Dated: March 17, 2009

/s/

---

PETER PAUL CASTILLO  
Administrative Law Judge  
Office of Administrative Hearings