

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT on behalf of STUDENT,

v.

ALTA LOMA SCHOOL DISTRICT.

OAH CASE NO. 2009070841

DETERMINATION OF SUFFICIENCY  
OF DUE PROCESS COMPLAINT

On July 21, 2009, advocate Martha Haynes, on behalf of Student, filed a Due Process Hearing Request (complaint) against the Alta Loma School District (District).<sup>1</sup> On July 23, 2009, West End Special Educational Local Planning Area Administrator Joann Reilly, on behalf of the District, filed a Notice of Insufficiency (NOI) as to Student's complaint.

APPLICABLE LAW

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. (§ 1415(b)(7)(A)(ii)(III) & (IV);<sup>2</sup> Ed. Code, § 56502, subd. (c)(1).)

The complaint is deemed sufficient unless the party against whom the complaint has been filed notifies the Office of Administrative Hearings (OAH) and the other party, in writing, within 15 days of receiving the complaint, that the complaint has not met the notice requirements. (§ 1415(c)(2)(C); 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.

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

---

<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.

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 alleges three issues against the District. The issues involve the District's purported denial of FAPE by not offering Student a placement in the least restrictive environment, District's failure to provide Student with occupational therapy services, and District's failure to respond to Student's parent's request for an independent educational evaluation (IEE).

Regarding Issue One, Student's complaint contains sufficient factual allegations to support his claim that the District failed to make an IEP offer of placement in the least restrictive environment. Student alleges reasons why the District's proposed placement in a special day classroom is not the least restrictive environment and how he can be appropriately educated in a general education classroom at his home school. This claim is sufficient to put the District on notice of the issues forming the basis of this claim.

Regarding Issue Two, Student's complaint contains sufficient factual allegations to support his claim that the District's July 11, 2009 IEP denied him a FAPE because the District did not offer direct occupational therapy services, which Student alleges he needs to make meaningful educational progress. This claim is sufficient to put the District on notice of the issues forming the basis of this claim.

Regarding Issue Three, Student's complaint does not contain sufficient factual allegations to provide the required notice to District because the complaint does not state if or when Student's parent made a request to the District for psychoeducational and occupational therapy IEEs because parent disagreed with the results of the District's prior assessments.

Therefore, based on the foregoing, Student's Issues One and Two are sufficiently pled to put the District on notice as to the basis of Student's claims.

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. Student's complaint fails to provide this notice in Issue Three.

## ORDER

1. Pursuant to section 1415(b)(7)(A)(ii), Issues One and Two of Student's complaint are sufficient.

2. Pursuant to section 1415(c)(2)(D), Issue Three of Student's complaint is insufficiently pled.

3. Pursuant to section 1415(c)(2)(E)(i)(II), Student shall be permitted to file an amended complaint.<sup>3</sup>

4. 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.

5. If Student fails to file a timely amended complaint, the hearing shall proceed only on Student's Issues One and Two.

Dated: July 28, 2009

/s/

---

PETER PAUL CASTILLO  
Administrative Law Judge  
Office of Administrative Hearings

---

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