

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT on behalf of STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2009110351

DETERMINATION OF SUFFICIENCY
OF DUE PROCESS COMPLAINT

On November 10, 2009, Student filed a Due Process Hearing Request]¹ (complaint) naming the District. On November 12, 2009, the District filed a Notice of Insufficiency (NOI) as to Student's complaint.

APPLICABLE LAW

The named party to a due process hearing request has the right to challenge the sufficiency of the complaint. (20 U.S.C. § 1415(b) & (c).)² The party filing the complaint is not entitled to a hearing unless the complaint meets the requirements of section 1415(b)(7)(A).

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).)

In addition, 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.)

¹ 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).

² All statutory citations are to Title 20 United States Code unless otherwise noted.

DISCUSSION

Student alleges one issue related to transportation during the 2006-2007 school year. The information in the complaint discusses the dates when the District knew or should have known that Student was entitled to reimbursement for transportation. A resolution is included seeking payment for transportation expenses incurred by Student's family.

The facts alleged in the complaint are sufficient to put the District on notice of the issues forming the basis of the complaint. Student's complaint identifies the issues and includes adequate related facts to document the problem to permit the District to respond to the complaint and prepare a defense at hearing.

Under the IDEA and California Education Code, the complaint is evaluated on the face of the document. The District raises issues and arguments, particularly regarding the time period alleged, that may form the basis for a later motion to dismiss. Nevertheless, the face of the complaint provides sufficient information to meet the minimum pleading requirements under state and federal law. The information provided in the complaint notifies the District of the nature of the problem, facts relating to the problem, and a proposed resolution, at the minimum level necessary for the District to prepare a defense.

Therefore, the complaint is sufficient.

IT IS SO ORDERED.

Dated: November 12, 2009

/s/

RICHARD CLARK
Presiding Administrative Law Judge
Office of Administrative Hearings