

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT on behalf of STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL  
DISTRICT AND LOS ANGELES UNIFIED  
SCHOOL DISTRICT SPECIAL  
EDUCATION LOCAL PLAN AREA.

OAH CASE NO. 2009110438

DETERMINATION OF SUFFICIENCY  
OF DUE PROCESS COMPLAINT

On November 10, 2009, Jennifer Guze Campbell, attorney for Student, filed a Due Process Hearing Request<sup>1</sup> (complaint) against the Los Angeles Unified School District (District) and the Los Angeles Unified School District Special Education Local Plan Area (SELPA). On November 24, 2009, Mampre R. Pomakian, attorney for District, filed a Notice of Insufficiency (NOI) concerning 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. (20 U.S.C. §§ 1415(b)(7)(A)(ii)(III), 1415(b)(7)(A)(ii)(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.

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<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.

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.)

## DISCUSSION

Student's complaint raises four problems with a proposed resolution for each problem.

### *Problem No. 1*

Student states that District and SELPA have failed to recognize that Student is represented by counsel. Student asserts that by failing to communicate with her counsel, District and SELPA have prevented her parent from exercising and enforcing her rights as a child with a disability.

Student fails to identify a problem relating to the proposed initiation or change concerning the identification, evaluation, or educational placement of Student, or the provision of a FAPE to Student. Problem No. 1 is not legally sufficient.

### *Problem No. 2*

Student asserts that District and SELPA have failed to provide Student's counsel with educational records pursuant to a request made on October 19, 2009. Student fails to adequately connect the stated problem with a proposed initiation or change concerning the identification, evaluation, or educational placement of Student, or the provision of a FAPE to Student. Problem No. 2 is not legally sufficient.

### *Problem No. 3*

Student asserts that District and SELPA have refused to provide Student with information regarding individuals who may have reviewed Student's educational records. Student fails to adequately connect the stated problem with a proposed initiation or change concerning the identification, evaluation, or educational placement of Student, or the provision of a FAPE to Student. Problem No. 3 is not legally sufficient.

### *Problem No. 4*

Student asserts that District and SELPA knew Student was not receiving an "educational benefit" from her previous individualized education program (IEP) and failed to convene an IEP team meeting; assess Student in all areas of suspected disability; address each area of suspected disability pursuant to an appropriate IEP; and provide Student with a FAPE in the least restrictive environment.

Student has identified a problem, but has failed to provide adequate facts relating to the problem. Student fails to identify a specific time period; a particular IEP under which Student claims she did not receive educational benefit; the suspected areas of disability that District and SELPA failed to assess; and, what is needed in an IEP to make it appropriate for Student. Problem No. 4 is not legally sufficient.

The proposed resolutions request that District and SELPA be ordered to communicate with Student's counsel, and provide Student with records and information regarding individuals who have reviewed Student's educational records. Student also requests either nonpublic school placement, or that assessments be conducted and an IEP be developed and implemented based upon the assessment results. Student has met the statutorily required standard of stating a resolution to the extent known and available to her at the time.

### ORDER

1. Pursuant to section 1415(c)(2)(D), Student's complaint is insufficiently pled, and 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.
5. All dates previously set in this matter are vacated.

Dated: November 25, 2009

/s/  
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BOB VARMA  
Administrative Law Judge  
Office of Administrative Hearings

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