

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

Parent(s) on behalf of Student,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT; PASADENA UNIFIED
SCHOOL DISTRICT

OAH CASE NO. 2009121064

ORDER RE: DETERMINATION OF
SUFFICIENCY OF DUE PROCESS
COMPLAINT

On December 28, 2009, Student filed a Due Process Hearing Request¹ (complaint) naming Los Angeles Unified School District (LAUSD) and Pasadena Unified School Districts (PUSD) as the respondents. On January 11, 2010, PUSD filed a timely Notice of Insufficiency (NOI) as to Student's complaint.

APPLICABLE LAW

The respondent 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); 56502, subdivision (c)). The determination of whether a complaint is sufficient is made by looking at the face of the complaint. (§ 1415(c)(2)(D).) In general, fundamental principles of due process entitle the respondent to know the nature of the allegations being made against it, such that respondent may 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

The Individuals with Disabilities Education Act (IDEA) does not require that a person or entity filing a claim plead facts with particularity. A person is required to file a short and plain statement of the claim and the grounds upon which it rests, along with proposed resolutions.

Here, Student's complaint alleges that Student attended LAUSD, and qualified for special education, from the 2001-2002 school year until March, 2009. Student transferred to PUSD in March 2009. Student's initial IEP with PUSD was held in April, 2009.

The complaint alleges that, from December 2007 through December 2009, both LAUSD and PUSD have denied Student FAPE by 1) failing to adequately assess Student in the area of psycho-educational evaluation; 2) failing to properly assess Student's behavior for mental health services, including consideration of a referral for AB 3632 services at a residential treatment center; and 3) failing to provide adequate educational services to meet any of Student's educational goals.

Students' issues as described above are supported by factual allegations, and the complaint states specific proposed resolutions. The content of Student's complaint is unambiguous and exceeds the minimum notice requirements of IDEA due process hearing requests. Therefore, Student's complaint is sufficient.

ORDER

1. The complaint is deemed sufficient pursuant to section 1415(b)(7)(A)(ii) and Education Code section 56502, subdivision (c). PUSD's NOI is denied.
2. All mediation, prehearing conference, and hearing dates in this matter shall remain on calendar.

Dated: January 13, 2010

/s/

ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings