

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT on behalf of STUDENT,

v.

OAK GROVE UNIFIED SCHOOL  
DISTRICT.

OAH CASE NO. 2010031909

ORDER OF DETERMINATION OF  
SUFFICIENCY OF DUE PROCESS  
COMPLAINT

On March 29, 2010, Parents on behalf of Student (herein collectively referred to as Student) filed a Due Process Hearing Request<sup>1</sup> (complaint) naming the Oak Grove Unified School District (District).

On April 8, 2010, the District timely filed a Notice of Insufficiency (NOI) as to Student's complaint. For the reasons elaborated below, Student's complaint meets the legal standard of sufficiency for a due process complaint.

APPLICABLE LAW

The named parties to a due process hearing request have the right to challenge the sufficiency of the complaint.<sup>2</sup> 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.<sup>3</sup> These requirements prevent vague and confusing complaints, and promote fairness by providing the named parties with sufficient information to know how to prepare for the hearing and how to participate in resolution sessions and mediation.<sup>4</sup>

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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> 20 U.S.C. § 1415(b) & (c).

<sup>3</sup> 20 U.S.C. § 1415(b)(7)(A)(ii)(III) & (IV)

<sup>4</sup> See, H.R.Rep. No. 108-77, 1st Sess. (2003), p. 115; Sen. Rep. No. 108-185, 1st Sess. (2003), pp. 34-35.

The complaint provides enough information when it provides “an awareness and understanding of the issues forming the basis of the complaint.”<sup>5</sup> The pleading requirements should be liberally construed in light of the broad remedial purposes of the IDEA and the relative informality of the due process hearings it authorizes.<sup>6</sup> Whether the complaint is sufficient is a matter within the sound discretion of the ALJ.<sup>7</sup>

## DISCUSSION

Student’s complaint contains one issue along with an initial detailed factual background section which precedes the discussion of the specific issue in dispute. Student alleges that his mother and his attorneys have been attempting to obtain copies of his education records from the District since October 20 without success. Student alleges that the District has only agreed to provide the records under specified conditions which Student contends are not appropriate. Student further contends that the District has never agreed to provide access to all of his records, including all of his special education records. As a result of the District’s failure, Student alleges that his attorney lacks the necessary information to adequately prepare a due process request. Student further alleges that the District has violated his and his parent’s procedural rights by its refusal to provide him with a copy of all of his education records.

The District contends that Student’s complaint is insufficient because it fails to state the specific substantive violations Student has suffered due to the District’s alleged refusal to provide him with copies of his records. The District’s position is not well-taken. Student’s complaint specifically states that his attorney has been unable to prepare a due process complaint since she has not been able to review Student’s records. His complaint also states that his parent has not been able to participate in the regarding educational decisions concerning Student because of not having copies of Student’s records. These allegations are sufficiently descriptive to put the District on notice regarding the issues presented for hearing in this matter. Student’s complaint identifies the issues and adequate related facts about the problem to permit the District to respond to the complaint and participate in a resolution session and mediation. It also presents proposed resolutions. Whether the proposed resolutions are appropriate is a matter to be determined at the due process hearing.

Therefore, Student’s statement of the claims and proposed resolutions are sufficient.

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<sup>5</sup> Sen. Rep. No. 108-185, *supra*, at p. 34.

<sup>6</sup> *Alexandra R. v. Brookline School Dist.* (D.N.H., Sept. 10, 2009, No. 06-cv-0215-JL) 2009 WL 2957991 at p.3 [nonpub. opn.]; *Escambia County Board of Educ. v. Benton* (S.D.Ala. 2005) 406 F. Supp.2d 1248, 1259-1260; *Sammons v. Polk County School Bd.* (M.D. Fla., Oct. 28, 2005, No. 8:04CV2657T24EAJ) 2005 WL 2850076 at p. 3[nonpub. opn.] ; but cf. *M.S.-G. v. Lenape Regional High School Dist.* (3d Cir. 2009) 306 Fed.Appx. 772, at p. 3[nonpub. opn.].

<sup>7</sup> Assistance to States for the Education of Children With Disabilities and Preschool Grants for Children With Disabilities, 71 Fed.Reg. 46540-46541, 46699 (Aug. 14, 2006).

ORDER

1. The complaint is sufficient under section 1415(b)(7)(A)(ii).
2. All mediation, prehearing conference, and hearing dates in this matter are confirmed.

Dated: April 13, 2010

/s/

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DARRELL LEPKOWSKY  
Administrative Law Judge  
Office of Administrative Hearings