

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

PASADENA UNIFIED SCHOOL  
DISTRICT.

OAH CASE NO. 2010080368

DETERMINATION OF SUFFICIENCY  
OF DUE PROCESS COMPLAINT

On August 9, 2010, Student filed a Due Process Hearing Request<sup>1</sup> (complaint) naming Pasadena Unified School District (District) as the respondent. The complaint alleged the following denials of a free appropriate public education (FAPE), each of which was supported by allegations of relevant facts that included dates and/or a specific time period: 1) Student was denied a FAPE by the District's failure to respond to a recent records request; 2) Student was denied a FAPE by District's failure to meet its child find obligation; 3) Student was denied a FAPE because the District's psychoeducational assessment was inadequate; 4) Student was denied a FAPE because he was not offered an appropriate placement and services; 5) Student was denied a placement in the LRE because he was enrolled in independent study, rather than provided an appropriate placement; and 6) Because Student was denied a FAPE, Student's guardian should be entitled to reimbursement for a unilateral placement. Student's residence information was clearly alleged, and each issue included proposed resolutions. On August 24, 2010, District timely filed a Notice of Insufficiency (NOI). As discussed below, the complaint is sufficient.

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

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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). All subsequent statutory references are to Title 20 United States Code, unless otherwise indicated.

<sup>2</sup> § 1415(b) & (c).

<sup>3</sup> § 1415(b)(7)(A)(ii)(III) & (IV)

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>

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>

Here, the complaint meets all of the IDEA notice requirements.

### 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: August 25, 2010

/s/

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RICHARD T. BREEN  
Administrative Law Judge  
Office of Administrative Hearings

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<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.

<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).