

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL  
DISTRICT, LOS ANGELES COUNTY  
MENTAL HEALTH AND LOS ANGELES  
COUNTY OFFICE OF EDUCATION.

OAH CASE NO. 2011031144

ORDER OF DETERMINATION OF  
INSUFFICIENCY OF DUE PROCESS  
COMPLAINT AS TO LOS ANGELES  
COUNTY OFFICE OF EDUCATION

On March 22, 2011, Student filed a Due Process Hearing Request<sup>1</sup> (complaint) naming Los Angeles Unified School District (District), Los Angeles County Mental Health (LACMH) and Los Angeles County Office of Education (LACOE).

On March 28, 2011, LACOE timely filed a Notice of Insufficiency (NOI) as to Student's 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 Title 20 United States Code 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

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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).

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>

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 Administrative Law Judge.<sup>7</sup>

## DISCUSSION

Student's complaint is insufficiently pled in that it fails to provide LACOE with the required notice of a description of the problem and the facts relating to the problem. Specifically, there is no indication in the complaint that LACOE denied Student a free appropriate public education (FAPE), failed to identify or incorrectly identified Student as eligible or not eligible for special education and related services or that LACOE failed to assess or inappropriately assessed Student. The complaint fails to state any connection between Student and LACOE and fails to state any basis for Student's claim for relief as to LACOE including that Student is or has ever been a LACOE student.

A parent who is not represented by an attorney may request that the Office of Administrative Hearings (OAH) provide a mediator to assist the parent in identifying the issues and proposed resolutions that must be included in a complaint.<sup>8</sup> Parents are

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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).

<sup>8</sup> Ed. Code, § 56505.

encouraged to contact OAH for assistance if they intend to amend their due process hearing request.

## ORDER

1. Student's complaint is insufficiently pled as to LACOE only under section Title 20 United States Code 1415(c)(2)(D).
2. Student shall be permitted to file an amended complaint under Title 20 United States Code section 1415(c)(2)(E)(i)(II).<sup>9</sup>
3. The amended complaint shall comply with the requirements of Title 20 United States Code 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 hearing shall proceed only on the issues pertaining to the remaining respondents District and LACMH.

Dated: April 1, 2011

/s/

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GLYNDA B. GOMEZ  
Administrative Law Judge  
Office of Administrative Hearings

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<sup>9</sup> The filing of an amended complaint will restart the applicable timelines for a due process hearing.