

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

SADDLEBACK VALLEY UNIFIED
SCHOOL DISTRICT.

OAH CASE NO. 2011040670

ORDER OF DETERMINATION OF
SUFFICIENCY OF DUE PROCESS
COMPLAINT

On April 18, 2011, Student filed a Due Process Hearing Request¹ (complaint) against the Saddleback Valley Unified School District (District). On April 27, 2011, the District filed a Notice of Insufficiency (NOI) as to Student's complaint.²

APPLICABLE LAW

The named parties to a due process hearing request have the right to challenge the sufficiency of the complaint.³ 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.⁴ These requirements prevent vague and confusing complaints, and promote fairness by providing the

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 The District also filed a motion to dismiss, which is moot because the NOI is granted as to the entire complaint.

³ 20 U.S.C. § 1415(b) & (c).

⁴ 20 U.S.C. § 1415(b)(7)(A)(ii)(III) & (IV).

named parties with sufficient information to know how to prepare for the hearing and how to participate in resolution sessions and mediation.⁵

The complaint provides enough information when it provides “an awareness and understanding of the issues forming the basis of the complaint.”⁶ The pleading requirements should be liberally construed in light of the broad remedial purposes of the Individuals with Disabilities Education Act and the relative informality of the due process hearings it authorizes.⁷ Whether the complaint is sufficient is a matter within the sound discretion of the Administrative Law Judge.⁸

DISCUSSION

Student’s complaint contains one issue for hearing, alleging that the District failed to timely produce Student’s educational records regarding an incident that occurred on March 5, 2011, which prevents Parents from participating in Student’s educational decision making process.⁹ However, the complaint does not contain sufficient allegations why the District’s purported refusal to produce the requested information denied Student a FAPE or prevented Parent from meaningfully participating in Student’s educational decision making process. The complaint does identify any particular educational decision-making event, such as an individualized educational program team meeting, in which Parents could not

⁵ See, H.R.Rep. No. 108-77, 1st Sess. (2003), p. 115; Sen. Rep. No. 108-185, 1st Sess. (2003), pp. 34-35.

⁶ Sen. Rep. No. 108-185, *supra*, at p. 34.

⁷ *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.].

⁸ 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).

⁹ The other issue in the complaint alleges that based on the violation in Issue One that the District violated the Americans with Disabilities Act, 42 U.S.C. section 1983 and Section 504 of the Rehabilitation Act, which Student concedes in the complaint that the Office of Administrative Hearings does not have jurisdiction to hear.

meaningfully participate due to District's failure to produce student records.¹⁰ Accordingly, this issue is insufficiently pled.

ORDER

1. Student's complaint is insufficiently pled 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).¹¹
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 complaint will be dismissed.
5. All dates previously set in this matter are vacated.

Dated: April 28, 2011

/s/

PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings

¹⁰ Nothing in this order prevents Student from filing a compliance complaint with the California Department of Education, instead of a due process hearing request, as to the District's purported failure to produce requested records. (Cal. Code Regs., tit. 5, § 4600, et. seq.)

¹¹ The filing of an amended complaint will restart the applicable timelines for a due process hearing.