

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

GRANADA HILLS CHARTER HIGH  
SCHOOL.

OAH CASE NO. 2011120341

ORDER OF DETERMINATION OF  
SUFFICIENCY OF DUE PROCESS  
COMPLAINT

On December 12, 2011, Parents on behalf of Student (Student) filed a Due Process Hearing Request<sup>1</sup> (complaint) naming Granada Hills Charter High School (GHS) as respondent. The complaint merely alleges that Parents met with GHS personnel to resolve differences concerning Student's "IEP placement." The complaint fails to allege what the differences are and any facts regarding the dispute. Student's proposed resolution is to finish the current school year at GHS.

On December 19, 2011, GHS filed a Notice of Insufficiency (NOI) as to Student's complaint. GHS contends that the complaint fails to contain sufficient facts to permit GHS to understand what is being claimed against it so as to be able to defend the matter. Additionally, GHS contends that it is not the local education agency (LEA) responsible for providing a free appropriate public education (FAPE) for Student, who resides in the Sulfur Springs School District. GHS contends that Student is no longer eligible to attend GHS, a school chartered by the Los Angeles Unified School District (LAUSD), as he had changed residency.

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).

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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).

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>

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 in what manner Student is being denied a FAPE because GHS refuses to permit Student to continue attending it. Additionally, Student must also plead facts to support his claim that he is being denied a FAPE. Because of this deficiency, GHS does not possess knowledge of what it must defend against.

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<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.

<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).

As to GHS's contention that the Office of Administrative Hearings (OAH) does not have jurisdiction to hear the matter, as the GHS action to remove Student from GHS was a result of Student's residency change, it is premature to consider this without knowing the basis of Student's claim. Student must describe the manner that Student is being denied a FAPE and plead facts to support that contention.

**MEDIATOR ASSISTANCE FOR NON-REPRESENTED PARENTS:** 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 encouraged to contact OAH for assistance if they intend to amend their due process hearing request.

### 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).<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 complaint will be dismissed.

5. All dates previously set in this matter are vacated.

Dated: January 9 , 2012

/s/

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ROBERT HELFAND  
Administrative Law Judge  
Office of Administrative Hearings

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8 Ed. Code, § 56505.

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