

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

RIVERSIDE UNIFIED SCHOOL  
DISTRICT.

OAH CASE NO. 2011120377

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 the Riverside Unified School District (District) as respondent. In the complaint, Student avers two issues. The first issue is that the District's IEP team failed to include sufficient members as required. Student alleges that the IEP team failed to include a District representative. Although the complaint fails to state which IEP meeting is being referred to, Student attaches as an exhibit to the complaint a copy of the December 8, 2011 IEP document. Thus, it is apparent that the complaint is referring to the December 8, 2011 IEP meeting. As a resolution, Student requests that a new IEP meeting be held with the proper persons in attendance. Student's second issue is that (1) the District IEP team failed to take into consideration information provided by Student's parents as to whether he should be eligible for special education and related services under the category of Emotional Disturbance (ED), and (2) that the IEP team's determination that Student was not eligible for special education as ED was not appropriate. Student's proposed resolution is for the IEP team to reconvene and consider input from Parents.

On December 22, 2011 the District filed a Notice of Insufficiency (NOI) as to issue one of Student's complaint. The District contends that the complaint fails to provide sufficient facts to provide notice to the District what is being alleged by Student specifically issue one.

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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).

## 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).

The facts alleged in Student's complaint are sufficient to put the District on notice of the issues forming the basis of the complaint. 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.

Therefore, Student's complaint is sufficient.

## ORDER

1. The complaint is sufficient under Title 20 United States Code section 1415(b)(7)(A)(ii).
2. All mediation, prehearing conference, and hearing dates in this matter are confirmed.

Dated: December 27, 2011

/s/

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ROBERT HELFAND  
Administrative Law Judge  
Office of Administrative Hearings

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<sup>2</sup> 20 U.S.C. § 1415(b) & (c).