BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. LOS ANGELES UNIFIED SCHOOL DISTRICT AND THE COUNTRY SCHOOL.	OAH CASE NO. 2012010631 AMENDED[1] ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

On January 23, 2012, Student filed a Due Process Hearing Request[2] (complaint) against the Los Angeles Unified School District (District) with the Office of Administrative Hearings (OAH). On February 14, 2012, the District 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.[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).

The Individuals with Disabilities Education Improvement Act of 2004 (20 U.S.C. § 1400, et. seq. (IDEA) provides that a party may not have a due process hearing until the notice of a due process hearing request meets the specifications listed in Section 1415(b)(7)(A). (§ 1415(b)(7)(B).) Further, Section 1415(c)(2)(A) requires the party requesting the due process hearing serve a copy of the complaint on the opposing party.

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[1] Please note the corrected case caption.

[2] 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).

[3] 20 U.S.C. § 1415(b) & (c).

The complaint is deemed sufficient unless a party notifies OAH and the other party in writing within 15 days of receiving the complaint that the party believes the complaint has not met the notice requirements.[4]

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.[5] 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.[6]

The complaint provides enough information when it provides "an awareness and understanding of the issues forming the basis of the complaint."[7] 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.[8] Whether the complaint is sufficient is a matter within the sound discretion of the Administrative Law Judge.[9]

DISCUSSION

Student's complaint was filed on January 23, 2012, with a proof of service, signed by Student's mother, indicates that the complaint was served on the District the same day.

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[4] 20 U.S.C. § 1415(c)(2)(C); Ed. Code, § 56502, subd. (d)(1).

[5] 20 U.S.C. § 1415(b)(7)(A)(ii)(III) & (IV).

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

[7] Sen. Rep. No. 108-185, *supra*, at p. 34.

[8] *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.].

[9] 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).

While the District's NOI does not state when it received a copy of the complaint, its February 13, 2012 motion to reset the hearing timeline states that the District first received a copy of the complaint on January 31, 2012. However, neither the District's NOI nor motion to reset timelines includes a declaration that states that it did not receive a copy of the complaint until January 31, 2012. Further, the District does not explain why it waited three weeks to inform OAH that it had not been served with a copy of Student's complaint after it received the January 24, 2012 scheduling order, which put the District on notice that Student had filed a complaint against the District. Accordingly, the District's NOI is not timely as it did not establish that it did not receive a copy of the complaint until January 31, 2012.

ORDER

1. The complaint is deemed sufficient under title 20 United States Code section 1415(c)(2)(C) and Education Code section 56502, subdivision (d)(1).

2. All mediation, prehearing conference, and hearing dates in this matter are confirmed.

Dated: February 27, 2012

/s/

PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings