

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

WHITTIER CITY SCHOOL DISTRICT  
AND WHITTIER AREA COOPERATIVE  
SPECIAL EDUCATION PROGRAM.

OAH CASE NO. 2012010640

ORDER DENYING MOTION IN  
LIMINE

On January 24, 2012, Student filed a Due Process Hearing Request (complaint) against the Whittier City School District (District) and Whittier Area Cooperative Special Education Program (WACSEP) with the Office of Administrative Hearings (OAH). This matter is set for hearing on March 19, 2012.

On February 24, 2012, Student filed a motion in limine to prohibit the District and WACSEP from introducing at hearing specific evidence because the District and WACSEP provided an inadequate response to the complaint. The District and WACSEP submitted their response on February 27, 2012.

APPLICABLE LAW

The Individuals with Disabilities Education Act (IDEA) and state law regulating special education administrative proceedings require a party receiving a complaint to send a response to the complaint to the filing party within 10 days after the receipt of the complaint. (20 U.S.C. § 1415(c)(2)(B)(ii)<sup>1</sup>; Ed. Code, § 56502, subd. (d)(2); and 34 C.F.R. § 300.508(e) and (f) (2006).) Further, within this ten day period, pursuant to Section 1415(f)(1)(B)(i)(I), for local education agencies (LEA's) that have not sent a prior written notice to the parent regarding the subject matter contained in the complaint notice, the LEA shall send to the parent a response that shall include:

- (1) an explanation of why the agency proposed or refused to take the action raised in the complaint;

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<sup>1</sup> All statutory citations are to title 20 United States Code unless otherwise noted.

- (2) a description of other options that the IEP Team considered and the reasons why those options were rejected;
- (3) a description of each evaluation procedure, assessment, record, or report the agency used as the basis for the proposed or refused action; and
- (4) a description of the factors that are relevant to the agency's proposal or refusal.

## DISCUSSION

Student requests that OAH grant the motion in limine to prevent the District and WACSEP from introducing evidence at hearing as to other placement options they considered, the basis for their refusal to consent to Parent's placement request and the factors they considered in their decision. While the IDEA and Education Code section 56502 create the obligation of a local education agency to send a parent a response after a parent files a due process complaint, neither grants an administrative law judge the authority to order a LEA to file a response or to sanction the LEA for an allegedly inadequate response. This is in contrast to Section 1415(c)(2)(D) that requires an administrative law judge to evaluate the sufficiency of a due process complaint if a timely notice of insufficiency is filed. Thus, the IDEA and Education Code section 56502 do not give OAH the authority to limit evidence at hearing based on the adequacy of the District's and WACSEP's response to the complaint.<sup>2</sup>

## ORDER

Student's motion in limine is denied.

Dated: March 2, 2012

/s/

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PETER PAUL CASTILLO  
Administrative Law Judge  
Office of Administrative Hearings

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<sup>2</sup> A local education agency's failure to comply with the IDEA may subject the agency to a compliance complaint by the parent to the California Department of Education. (See Ed. Code, § 56045.)