

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

GLENDALE UNIFIED SCHOOL DISTRICT, POMONA UNIFIED SCHOOL DISTRICT, NORWALK-LA MIRADA UNIFIED SCHOOL DISTRICT, AND LOS ANGELES COUNTY OFFICE OF EDUCATION.

OAH CASE NO. 2012060908

ORDER DETERMINING AMENDED DUE PROCESS COMPLAINT TO BE SUFFICIENTLY PLED AS TO POMONA UNIFIED SCHOOL DISTRICT

On June 15, 2012, Student, through his Father, filed a Due Process Hearing Request¹ with the Office of Administrative Hearings (OAH) naming the Glendale Unified School District (Glendale District), the Pomona Unified School District (Pomona District), the Norwalk-La Mirada Unified School District (Norwalk District) and the Los Angeles County Office of Education (LACOE). On July 11, 2012, Student filed his first amended complaint (amended complaint).

On July 18, 2012, LACOE filed a Notice of Insufficiency (NOI) as to Student's amended complaint. On July 24, 2012, OAH issued an Order determining the amended complaint to be insufficiently pled as to LACOE. On July 25, 2012, Pomona District filed an NOI, which is ruled upon herein.

APPLICABLE LAW

The named parties to a due process hearing request have the right to challenge the sufficiency of the complaint.² 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

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 20 U.S.C. § 1415(b) & (c).

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.³ 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.⁴

The complaint provides enough information when it provides “an awareness and understanding of the issues forming the basis of the complaint.”⁵ 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.⁶ Whether the complaint is sufficient is a matter within the sound discretion of the Administrative Law Judge.⁷ The named parties to a due process hearing request have the right to challenge the sufficiency of the complaint.⁸ 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).

DISCUSSION

Student’s amended complaint consists of two single-spaced pages, with more than 45 pages of exhibits. Generally, Father asserts that Student is now 18 years old and had been a special education student at Glendale District from kindergarten through December 2011. Student has an IEP from Glendale District, dated March 2012. For six years, the Glendale District IEP’s placed Student at Villa Esperanza School, a nonpublic school (NPS). In May

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

⁴ See, H.R.Rep. No. 108-77, 1st Sess. (2003), p. 115; Sen. Rep. No. 108-185, 1st Sess. (2003), pp. 34-35.

⁵ Sen. Rep. No. 108-185, *supra*, at p. 34.

⁶ *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.].

⁷ 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).

⁸ 20 U.S.C. § 1415(b) & (c).

2012, Father became Student's sole conservator. On May 23, 2012, Father placed Student in an adult group home in Pomona, California.

Previously, Father shared conservatorship responsibility with his wife, who continues to live in Glendale. Father separated from his wife in December 2011 and has since temporarily lived in several cities. Father states he is currently living with friends in Norwalk and has not yet determined where or when he will establish an independent residence.

The amended complaint asserts that Glendale District dis-enrolled Student as of June 15, 2012; LACOE advised Glendale District that residency was based upon where Father resided. Student further alleges that Norwalk District refused to enroll Student, which disagreed with Glendale's interpretation of applicable regulations. The amended complaint also claims that Pomona District refused to enroll Student, because Father was the conservator and residency was based upon where Father lived, though Student resided at an adult care facility in Pomona.

Pomona District claims that the amended complaint is insufficient, similar to OAH's previous finding of insufficiency as to LACOE. However, the amended complaint did not assert any claim that LACOE did or should provide special education services. In contrast, the amended complaint states that Student resides at an adult care facility in Pomona, that Father attempted to enroll Student at the Pomona District, and that Pomona District refused to enroll Student because Father did not reside in Pomona. The amended complaint basically requests that OAH determine which school district is responsible for Student's special education. As a proposed resolution, Student requests that Glendale District reenroll Student and, if not, Norwalk District or Pomona District be ordered to enroll Student.

The facts alleged in Student's amended complaint are sufficient to put the Pomona District on notice of the issue forming the basis of the complaint. Student's amended complaint adequately identifies the issue and related facts, as well as a proposed resolution, enabling the Pomona District to knowledgeably prepare for the hearing.

ORDER

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

Dated: July 31, 2012

/s/

CLIFFORD H WOOSLEY
Administrative Law Judge
Office of Administrative Hearings