

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

HAWTHORNE SCHOOL DISTRICT
AND CENTINELA VALLEY UNION
HIGH SCHOOL DISTRICT

OAH CASE NO. 2012110625

ORDER OF DETERMINATION OF
SUFFICIENCY OF DUE PROCESS
COMPLAINT

On November 20, 2012, Parents, on behalf of Student (Student), filed a Request for Due Process Hearing¹ (complaint) naming the Hawthorne School District (Hawthorne) and Centinela Valley Union High School District (Centinela).

On December 5, 2012, Hawthorne filed a Notice of Insufficiency (NOI) as to Student's complaint.²

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).

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,

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 Further, Hawthorne requests that Student's Issue One be dismissed due to insufficiency. District's Motion to Dismiss Issue One is deemed moot because Student's complaint is found to be insufficient pled herein. Student shall be granted leave to amend the complaint.

³ 20 U.S.C. § 1415(b) & (c).

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.⁴ 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.⁵

The complaint provides enough information when it provides “an awareness and understanding of the issues forming the basis of the complaint.”⁶ 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.⁷ Whether the complaint is sufficient is a matter within the sound discretion of the Administrative Law Judge.⁸

DISCUSSION

In its NOI, Hawthorne indicated that it received Student’s complaint on November 26, 2012. Therefore, Hawthorne’s NOI is timely.⁹ Otherwise, as discussed below, Student’s complaint is insufficiently pled. While Student’s complaint provides a general description of the issues and disputes relating to the provision of a free appropriate public education (FAPE) to Student, the complaint is indiscriminate regarding the allegation(s) made against each responding school

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

⁵ See, H.R.Rep. No. 108-77, 1st Sess. (2003), p. 115; Sen. Rep. No. 108-185, 1st Sess. (2003), pp. 34-35.

⁶ Sen. Rep. No. 108-185, *supra*, at p. 34.

⁷ *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.].

⁸ 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).

⁹ The complaint is deemed sufficient unless a party notifies the Office of Administrative Hearings 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. (20 U.S.C. § 1415(c)(2)(C); Ed. Code, § 56502, subd. (d)(1)).

district, and to which each district must present a defense. The complaint refers to the two respondents jointly as “district,” offers generalized allegations and facts about the alleged problems and fails to identify which of the districts is responsible for which alleged violation(s) or problems. Based on the complaint, it is difficult to discern which of the two districts each of Student’s two issues pertains to.

Student’s complaint fails to provide a factual description of the issues forming the basis of the complaint and/or allegation(s) against each school district. It fails to provide Hawthorne or Centinela with the required notice of a description of the problem, alleged violations and the facts relating to the problem. Student’s complaint is insufficiently pled.

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).¹⁰

3. The amended complaint shall remedy the identified problems discussed above, and shall comply with the requirements of Title 20 United States Code section 1415(b)(7)(A)(ii). The amended complaint 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.

6. District’s Motion to Dismiss Issue One is denied as moot.

Dated: December 5, 2012

/s/

ADENIYI AYOADE
Administrative Law Judge
Office of Administrative Hearings

¹⁰ The filing of an amended complaint will restart the applicable timelines for a due process hearing.