BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: EDUCATIONAL RIGHTS HOLDER ON BEHALF OF STUDENT, v. CONTRA COSTA COUNTY OFFICE OF EDUCATION; CONTRA COSTA COUNTY PROBATION DEPARTMENT.	OAH CASE NO. 2013080471 ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT; ORDER DISMISSING CLAIMS BEYOND OAH'S JURISDICTION

On August 9, 2013, a due process hearing request[1] (complaint) was filed on behalf of Student with the Office of Administrative Hearings (OAH), naming the Contra Costa County Office of Education (COE) and the Contra Costa County Probation Department.

On August 23, 2013, the COE filed a Notice of Insufficiency (NOI) as to the complaint. On August 26, 2013, Student filed a response.

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 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

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[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).

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

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]

DISCUSSION

COE contends that the complaint is insufficient because it does not contain the name and address of Student's parent(s) or other educational rights holder. COE also contends that it is insufficient because it does not specify which allegations or proposed resolutions pertain to which of the two respondents and because it contains allegations that are outside the jurisdiction of OAH to decide, such as claims under the Americans with Disabilities Act or "class-action" claims on behalf of multiple pupils.

Student contends that the identity and address of Student's educational rights holder was provided to OAH and to the respondents in writing after the filing of the complaint. Student believes that the allegations of the complaint are sufficiently clear and that any portions of the complaint which are beyond OAH's jurisdiction to decide should be addressed in a motion to dismiss, not an NOI.

Student's complaint contains the required statutory elements. While it should have contained the name and address of the parent(s) or educational rights holder bringing the action, it would serve little purpose, under these circumstances, to delay this proceeding by requiring Student to amend the complaint – COE has been notified in writing of the identity and address of the educational rights holder.

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[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).

Student's complaint is sufficient to put COE on notice as to the basis for the complaint. However, there is no question that Student has alleged many issues that are beyond the subject matter jurisdiction of OAH to hear and decide. Student explains that Student has filed these other claims in an abundance of caution to exhaust administrative remedies.

To the extent that the complaint alleges claims regarding this individual Student that arise under the Individuals with Disabilities Education Act, the complaint is sufficient. All of Student's "class action" claims involving other pupils, as well as any discrimination claims, Americans with Disabilities Act claims, and claims arising under Section 504 of the Rehabilitation Act are outside the subject matter jurisdiction of OAH and must be dismissed.[8]

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.

3. All portions of the complaint which involve other pupils besides Student, including any "class-action" language in the complaint, are hereby dismissed.

4. All portions of the complaint which allege claims under the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, or other anti-discrimination laws are hereby dismissed. The complaint will proceed on the claims involving this individual Student which arise under the Individuals with Disabilities Education Act.

Dated: August 29, 2013

/s/

SUSAN RUFF
Administrative Law Judge
Office of Administrative Hearings

[8] Student's opposition contends that these jurisdictional issues should be addressed in a motion to dismiss, not an NOI. However, because these claims are outside the subject matter jurisdiction of OAH, they may be appropriately dismissed at this time. There is no need to require the respondents to file a separate motion to dismiss.