

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

CAPISTRANO UNIFIED SCHOOL
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT ,

OAH Case No. 2016030010

PARENT ON BEHALF OF STUDENT,

v.

CAPISTRANO UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2016020203

ORDER OF DETERMINATION OF
SUFFICIENCY OF DUE PROCESS
COMPLAINT

On February 26, 2016, Capistrano Unifies School District filed a Due Process Hearing Request¹ (complaint) with the Office of Administrative Hearings naming Parent on behalf of Student. On March 1, 2016, Capistrano filed with OAH a Motion for Leave to File an Amended Complaint and a proposed Amended Complaint. On March 10, 2016, OAH issued an order granting Capistrano's Motion for Leave to File an Amended Complaint. The order deemed the Amended Complaint as being filed on the date of the order, March 10, 2016. The Amended Complaint contains two issues.

On March 18, 2016, Student filed a Response to the Amended Complaint which specifically denies both issues raised by Capistrano.

On March 29, 2016, Student filed a Notice of Insufficiency as to Capistrano's Amended Complaint. The NOI is dated March 23, 2016. The proof of service attached to the NOI indicates it was served on both Capistrano's counsel and OAH by both facsimile and mail on March 23, 2016. Capistrano filed with OAH an opposition to the NOI on March 28, 2016.

¹ A request for a due process hearing under Education Code section 56502 is the due process complaint notice required under title 20 U.S.C. section 1415(b)(7)(A).

OAH first received the NOI for filing by facsimile on March 29, 2016, at 10:52 a.m. OAH also did not receive a mailed copy also.

APPLICABLE LAW

The named parties to a due process hearing request have the right to challenge the sufficiency of the complaint. (20 U.S.C. § 1415(b) & (c).) 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 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).)

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 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. (20 U.S.C. § 1415(b)(7)(A)(ii)(III) & (IV).) 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. (See H.R.Rep. No. 108-77, 1st Sess. (2003), p. 115; Sen. Rep. No. 108-185, 1st Sess. (2003), pp. 34-35.)

The complaint provides enough information when it provides “an awareness and understanding of the issues forming the basis of the complaint.” (Sen. Rep. No. 108-185, *supra*, at p. 34.) 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. (*Alexandra R. ex rel. Burke v. Brookline School Dist.* (D.N.H., Sept. 10, 2009, CIV. 06-CV-0215-JL) 2009 WL 2957991[nonpub. opn.]; *Escambia County Bd. 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, 8:04CV2657T24EAJ) 2005 WL 2850076 [nonpub. opn.]; but cf. *M.S.-G v. Lenape Regional High School Dist. Bd. of Educ.* (3d Cir. 2009) 306 Fed.Appx. 772, 775 [nonpub. opn.].) Whether the complaint is sufficient is a matter within the sound discretion of the Administrative Law Judge. (*Assistance to States for the Educ. of Children with Disabilities & Preschool Grants for Children with Disabilities* (Aug. 14, 2006) 71 FR 46,540-46541, 46699.)

DISCUSSION

Here, the Amended Complaint was deemed filed on March 10, 2016. Thus, the 15 day period runs out on March 25, 2016. Student failed to file her NOI with OAH until March 29, 2016, which is four days past the expiration of the 15 day limit. Thus, the NOI was not filed timely.

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.

DATE: March 29, 2016

DocuSigned by:

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ROBERT HELFAND
Administrative Law Judge
Office of Administrative Hearings