

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

WINTERS JOINT UNION SCHOOL  
DISTRICT.

OAH Case No. 2016040409

ORDER DENYING NOTICE OF  
INSUFFICIENCY

On April 04, 2016 Parent on Student's behalf filed a Due Process Hearing Request<sup>1</sup> (complaint) with the Office of Administrative Hearings naming Winters Joint Union School District. On April 19, 2016, District filed a Notice of Insufficiency as to Student's complaint. On April 20, 2016, OAH granted the NOI, and gave Student 14 days to file an amended complaint. On May 3, 2016, Student filed an amended complaint. On May 20, 2016, District filed an NOI as to Student's amended complaint.

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

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<sup>1</sup> 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).

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.)

## DISCUSSION

Student's filed his amended complaint with OAH on May 3, 2016. Student filed a proof of service with OAH on May 6, 2016, indicating personal service on District on that date. District filed its NOI on May 20, 2016, which made it timely.

The facts alleged in Student's amended complaint are sufficient to put District on notice of the five issues and proposed resolutions forming the basis of the complaint as Student has corrected the deficiencies noted in the April 20, 2016 NOI order. Student's complaint sufficiently identifies the issues and adequate related facts about the problem to permit District to respond to the complaint and participate in a resolution session and mediation.

Therefore, Student's statement of the claims and proposed resolutions is sufficient.

## 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.

DATE: May 23, 2016

DocuSigned by:

*Adrienne L. Krikorian*

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ADRIENNE L. KRIKORIAN

Administrative Law Judge

Office of Administrative Hearings