

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

STUDENT,

v.

CHOWCHILLA UNION HIGH SCHOOL  
DISTRICT.

OAH Case No. 2016060671

ORDER OF DETERMINATION OF  
SUFFICIENCY OF DUE PROCESS  
COMPLAINT

On June 9, 2016, Student filed a Due Process Hearing Request<sup>1</sup> (complaint) with the Office of Administrative Hearings naming Chowchilla Union High School District. On June 10, 2016, District filed a Notice of Insufficiency as to Student's 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 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

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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).

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

Student’s complaint contains one issue, with several sub-issues for hearing, which involve District’s purported failure to make an individualized education program offer that provides Student with a FAPE, convene an IEP team meeting and not permitting Student to return to a District high school. Student’s complaint fails to allege sufficient facts because Student does not provide the date of the IEP’s in question, generally when Student requested District to convene an IEP team meeting, and whether the two years in question as to inadequate placements is the past two years or another period. Therefore, Student failed to allege sufficient facts to put District on notice as to the sole issue for hearing.<sup>2</sup>

Among Student’s proposed resolutions is that District reinstate Student to Chowchilla High School and provide an academic aide and after school tutoring. A complaint is required to include proposed resolutions to the problem, to the extent known and available to the party at the time. (20 U.S.C. §1415(b)(7)(A)(ii)(IV).) The proposed resolutions stated in Student’s complaint are well-defined requests that meet the statutorily required standard of stating a resolution to the extent known and available to Student at the time.

## ORDER

1. Student’s complaint is insufficiently pled under section title 20 United States Code 1415(c)(2)(D).

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<sup>2</sup> For clarity, Student may want to consider alleging the various sub-issues as separate issues for hearing.

2. Student shall be permitted to file an amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II).<sup>3</sup>

3. The amended complaint shall comply with the requirements of title 20 U.S.C. section 1415(b)(7)(A)(ii), and 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.

DATE: June 15, 2016

DocuSigned by:  
*Peter Paul Castillo*

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PETER PAUL CASTILLO  
Presiding Administrative Law Judge  
Office of Administrative Hearings

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<sup>3</sup> The filing of an amended complaint will restart the applicable timelines for a due process hearing.