

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT on behalf of STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2009101287

DETERMINATION OF SUFFICIENCY
OF DUE PROCESS COMPLAINT

On October 14, 2009, Student filed a Due Process Hearing Request¹ (complaint) on behalf of her daughter, Student, naming Los Angeles Unified School District (District).

On October 22, 2009, District filed a Notice of Insufficiency (NOI) as to the Student's complaint.

APPLICABLE LAW

The respondent to a due process hearing request has the right to challenge the sufficiency of the complaint. (20 U.S.C. § 1415(b) & (c).)² The party filing the complaint is not entitled to a hearing unless the complaint meets the requirements of 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. (§ 1415(b)(7)(A)(ii)(III) & (IV).)

In addition, fundamental principles of due process apply to administrative proceedings in special education matters. The respondent is entitled to know the nature of the specific allegations being made against it, such that respondent may be able to prepare a defense. (*Tadano v. Manney* (9th Cir. 1947) 160 F.2d 665, 667; *Hornsby v. Allen* (5th Cir. 1964) 326 F.2d 605, 608.)

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 All statutory citations are to Title 20 United States Code unless otherwise noted.

DISCUSSION

Student submitted her request for a due process hearing to the Office of Administrative Hearings (OAH) in Spanish. OAH had the document translated. Student's complaint alleges problems with the educational placement under a December 2007 Individual Education Plan (IEP). Student then cites several reasons for her failure to meet her developmental goals, including teacher scheduling and lack of documentation. Student also includes a proposed resolution request asking that she be taken out of her current school and placed in another school.

The facts alleged in Student's complaint are sufficient to put the District on notice of the issues forming the basis of the complaint. Student's complaint identifies the issues and sufficient facts and dates to document the problem to permit District to adequately respond to the complaint. Student also includes a proposed resolution. Therefore, Student's statement of claims is sufficient.

However, even though the complaint is statutorily sufficient, Student and the District should be prepared to further clarify the issues and proposed resolutions in greater detail at the prehearing conference. The issues will need further clarification before the hearing.

ORDER

1. The complaint is deemed sufficient under section 1415(b)(7)(A)(ii).
2. All mediation, prehearing conference, and hearing dates in this matter shall remain on calendar.

Dated: October 27, 2009

/s/

TROY K. TAIRA
Administrative Law Judge
Office of Administrative Hearings