BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. SAN JUAN UNIFIED SCHOOL DISTRICT, DRY CREEK SCHOOL DISTRICT AND CENTER UNIFIED SCHOOL DISTRICT.	OAH CASE NO. 2010110357 ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

On November 5, 2010 Student filed a Due Process Hearing Request[1] (complaint) naming San Juan Unified School District, Dry Creek School District and Center Unified School District (CUSD) as the respondents.[2] On November 15, 2010, CUSD filed a Notice of Insufficiency (NOI) as to Student's complaint.[3] As discussed below, the complaint is insufficient as to all parties.

APPLICABLE LAW

The named parties to a due process hearing request have the right to challenge the sufficiency of the complaint.[4] 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,

---

[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] Student's sibling concurrently filed an identical complaint which has been designated as OAH Case No. 2010110402.

[3] CUSD filed a similar NOI as to the complaint in OAH Case No. 2010110402, which is addressed by a separate Order in that matter.

[4] 20 U.S.C. § 1415(b) & (c).

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.[5] 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.[6]

The complaint provides enough information when it provides "an awareness and understanding of the issues forming the basis of the complaint."[7] 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.[8] Whether the complaint is sufficient is a matter within the sound discretion of the Administrative Law Judge.[9]

DISCUSSION

The facts alleged in Student's complaint are not sufficient to put the other parties on notice of the issues forming the basis of the complaint. Student's complaint generally alleges residence within Dry Creek School District and a current educational placement at a daycare center located within Center Unified School District. The complaint also mentions, without explanation, a Deaf and Hard of Hearing (DHOH) program located within San Juan District, and states issues/disputes between the different districts concerning transportation there. The complaint also alleges generally that a new placement has been proposed at Ophir School (without stating which district Ophir is located within), and that this proposed placement raises proximity and transportation issues for Parent. The allegations are vague and confusing. It cannot be determined what Student's current placement is, what or where the

---

[5] 20 U.S.C. § 1415(b)(7)(A)(ii)(III) & (IV).

[6] See, H.R.Rep. No. 108-77, 1st Sess. (2003), p. 115; Sen. Rep. No. 108-185, 1st Sess. (2003), pp. 34-35.

[7] Sen. Rep. No. 108-185, *supra*, at p. 34.

[8] *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.].

[9] 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).

proposed new placement is, why there is both a daycare and a DHOH placement, or why three separate Districts are implicated. Student fails to provide a narrative explanation of these issues. Student also fails to identify a time frame, or to make reference to which IEP or IEPs are at issue. Therefore, Student's complaint is insufficiently pled as to all parties, in that it fails to provide the other parties with the required notice of a description of the problem and the facts relating to the problem.

ORDER

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

2. Student shall be permitted to file an amended complaint under Title 20 United States Code section 1415(c)(2)(E)(i)(II).[10]

3. A parent who is not represented by an attorney may request that the Office of Administrative Hearings (OAH) provide a mediator to assist the parent in identifying the issues and proposed resolutions that must be included in a complaint. [11] Parents are encouraged to contact OAH for assistance if they intend to amend their due process hearing request.

4. The amended complaint shall comply with the requirements of Title 20 United States Code section 1415(b)(7)(A)(ii), and shall be filed not later than 14 days from the date of this order.

5. If Student fails to file a timely amended complaint, the complaint will be dismissed.

6. All dates previously set in this matter are vacated.

Dated: November 15, 2010

/s/

JUNE R. LEHRMAN
Administrative Law Judge
Office of Administrative Hearings

---

[10] The filing of an amended complaint will restart the applicable timelines for a due process hearing.

[11] Ed. Code, § 56505.