

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

RIVERSIDE UNIFIED SCHOOL
DISTRICT, RIVER SPRINGS CHARTER
SCHOOL, AND RIVERSIDE COUNTY
OFFICE OF EDUCATION.

OAH CASE NO. 2011080359

ORDER OF DETERMINATION OF
SUFFICIENCY OF DUE PROCESS
COMPLAINT

On August 10, 2011, Parent on behalf of Student (Student) filed a Due Process Hearing Request¹ (complaint) naming Riverside Unified School District (District), River Springs Charter School (Charter School), and Riverside County Office of Education (RCOE). On August 24, 2011, the Charter School filed a Notice of Insufficiency (NOI) as to Student's complaint.² The District and RCOE did not file an NOI.

APPLICABLE LAW

The named parties to a due process hearing request have the right to challenge the sufficiency of the complaint.³ 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, 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

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 The Charter School's motion to dismiss will be ruled on in a separate order.

³ 20 U.S.C. § 1415(b) & (c).

resolution of the problem to the extent known and available to the party at the time.⁴ 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.⁵

The complaint provides enough information when it provides “an awareness and understanding of the issues forming the basis of the complaint.”⁶ The pleading requirements should be liberally construed in light of the broad remedial purposes of the Individuals with Disabilities Education Act and the relative informality of the due process hearings it authorizes.⁷ Whether the complaint is sufficient is a matter within the sound discretion of the Administrative Law Judge.⁸

DISCUSSION

Student’s complaint contains three issues for hearing, with Issue 2 the only issue against the Charter School. Issue 2 contains several allegations regarding substantive and procedural violations by the Charter School as to its purported failure to provide Student with special education services, failure to convene an individualized education program (IEP) team meeting, failure to develop and implement IEP goals and failure to meet Student’s behavioral needs. Student alleges sufficient facts that the Charter School denied Student a FAPE by failing to meet his unique needs, not developing an IEP and failing to implement Student’s existing IEP. Therefore, Issue 2 contains sufficient factual allegations as to Student’s contentions.

Student’s proposed resolutions requests compensatory education, with the type requested, and placement in a private residential facility. A complaint is required to include

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

⁵ See, H.R.Rep. No. 108-77, 1st Sess. (2003), p. 115; Sen. Rep. No. 108-185, 1st Sess. (2003), pp. 34-35.

⁶ Sen. Rep. No. 108-185, *supra*, at p. 34.

⁷ *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.].

⁸ 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 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, and therefore meet the statutorily required standard of stating a resolution to the extent known and available at the time. The issue whether the Office of Administrative Hearings may award a private residential placement because Student is presently incarcerated will be addressed in the order ruling on the motion to dismiss.

Accordingly, the complaint is sufficiently pled to put the Charter School on notice as to the basis of Student's claims and proposed resolutions to permit the Charter School to respond to the complaint and participate in a resolution session and mediation.

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.

Dated: August 29, 2011

/s/

PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings