

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

VICTOR VALLEY UNION HIGH
SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2011080382

ORDER STRIKING STUDENT'S
RESPONSE TO DISTRICT'S DUE
PROCESS COMPLAINT FILED
SEPTEMBER 6, 2011

On August 08, 2011, Victor Valley Union High School District (District or Plaintiff) filed a Due Process Hearing Request¹ (complaint) naming Student (Student).

On August 13, 2011, Student filed a document entitled Opposition to Plaintiff's Due Process Complaint.

On September 6, 2011, Student file a document entitled Response to Plaintiff's Due Process.

On September 6, 2011, the District filed a Request to Strike Student's Response to the Plaintiff's Due Process (filed September 6, 2011), from the record on the ground that the Response was untimely. Student has filed no opposition to the District's request.

APPLICABLE LAW

The response to the due process hearing request notice shall be made within 10 days of receiving the request notice in accordance with Section 1414 (c)(2)(B) of Title 20 of the United States Code. (Ed. Code, § 56502, subd. (d)(2)(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.² These

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

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.³

DISCUSSION

Student filed a timely response to the District's complaint on August 13, 2011. Student's subsequent Response, filed on September 6, 2011, is not timely, and is therefore stricken from the record.

It is noted that Student's Response, filed September 6, 2011, reads very much like a request for due process hearing, and might be construed as such. In order to do so, however, the document must comply with the requirements required under Title 20 United States Code section 1415(b)(7)(A). Student's Response filed September 6, 2011, as it is presently drafted, does not contain all required elements to be considered a request for due process hearing.

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.⁴ Parents are encouraged to contact OAH for assistance if they intend to file or amend their due process hearing request.

ORDER

The District's request to strike Student's Response to Plaintiff's Due Process, filed September 6, 2011, is granted. The Response to Plaintiff's Due Process is hereby stricken from the record, and OAH file on this matter.

Dated: September 16, 2011

/s/

JUDITH PASEWARK
Administrative Law Judge
Office of Administrative Hearings

³ See, H.R.Rep. No. 108-77, 1st Sess. (2003), p. 115; Sen. Rep. No. 108-185, 1st Sess. (2003), pp. 34-35.

⁴ Ed. Code, § 56505.