

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

STOCKTON UNIFIED SCHOOL  
DISTRICT.

OAH CASE NO. 2012030889

ORDER OF DETERMINATION OF  
SUFFICIENCY OF DUE PROCESS  
COMPLAINT

On March 23, 2012, Student filed a Due Process Hearing Request (complaint) against the Stockton Unified School District (District).<sup>1</sup> On April 4, 2012, the District filed a Notice of Insufficiency (NOI) as to Student's hearing request, and Student filed a response on April 5, 2012.<sup>2</sup>

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).

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. (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 mediation.<sup>3</sup>

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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 United States Code section 1415(b)(7)(A).

<sup>2</sup> The District also filed a Motion to Dismiss and a Motion to Strike. As Student's complaint is not sufficiently pled, the District's Motion to Dismiss and Motion to Strike are moot. If Student files an amended complaint, the District may file a new Motion to Dismiss and a new Motion to Strike.

<sup>3</sup> See, H.R.Rep. No. 108-77, 1st Sess. (2003), p. 115; Sen. Rep. No. 108-185, 1st

The complaint provides enough information when it provides “an awareness and understanding of the issues forming the basis of the complaint.”<sup>4</sup> 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. Whether the complaint is sufficient is a matter within the sound discretion of the Administrative Law Judge.

## DISCUSSION

Student’s complaint contains four issues for hearing that allege violations against the District during the 2009-2010 and 2010-2011 school years. Student’s complaint alleges that the District denied him a FAPE because it purportedly failed to assess, and reassess him, in areas of suspected disability. The complaint also alleges that the District unilaterally stopped providing a behavior support plan (BSP). The complaint contains scant information of the District’s alleged violations and fails to provide facts relating to the problems. The assertions contained in the complaint are insufficiently pled in that they fail to provide the District with the required notice of a description of the problems and the facts pertaining to the problems. Moreover, the complaint fails to provide a proposed resolution of any of the problems to the extent known and available to the party at the time the complaint was submitted.

Therefore, Student’s complaint is insufficiently pled as the complaint does not adequately describe when the District should have assessed Student, when the District unilaterally terminated the BSP, or what resolutions the Student is seeking to remedy these allegations. Accordingly, the complaint is insufficiently pled in that it fails to provide the District with the required notice of a description of the problem and the facts relating to the problem to permit District to respond to the complaint and participate in a resolution session and mediation.

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.<sup>5</sup> Parents are encouraged to contact OAH for assistance if they intend to amend their due process hearing request.

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Sess. (2003), pp. 34-35.

<sup>4</sup> Sen. Rep. No. 108-185, *supra*, at p. 34.

<sup>5</sup> Ed. Code, § 56505.

ORDER

1. Student's complaint is insufficiently pled under section title 20 United States Code 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).
3. 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.
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.

IT IS SO ORDERED.

Dated: April 05, 2012

/s/

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PAUL H KAMOROFF  
Administrative Law Judge  
Office of Administrative Hearings