

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

OAKLAND UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2014070650

ORDER OF DETERMINATION OF
SUFFICIENCY OF DUE PROCESS
COMPLAINT

On July 10, 2014, Parents on behalf of Student filed with the Office of Administrative Hearings a Due Process Hearing Request¹ (complaint) naming the Oakland Unified School District as respondent.

On July 29, 2014, Oakland filed with OAH a Notice of Insufficiency (NOI) as to Student's complaint.

APPLICABLE LAW

The named parties to a due process hearing request have the right to challenge the sufficiency of the complaint.² 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.³ These requirements prevent vague and confusing complaints, and promote fairness by providing the

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) & (c).

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

named parties with sufficient information to know how to prepare for the hearing and how to participate in resolution sessions and mediation.⁴

The complaint provides enough information when it provides “an awareness and understanding of the issues forming the basis of the complaint.”⁵ 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.⁶ Whether the complaint is sufficient is a matter within the sound discretion of the Administrative Law Judge.⁷

DISCUSSION

The complaint contains a single issue. Student alleges that his parent requested Oakland conduct an assessment to determine whether Student should continue to be provided a one-to-one aide and that Oakland failed to provide such services. Additionally, the complaint states: “The district has been out of compliance since 8-26-2013.”

The requested proposed resolution is that Student be provided a qualified one-to-one aide that will implement his IEP at his current placement.

In the NOI, Oakland states that it “understands that the Complaint’s first allegation to be that the District denied Student a FAPE (free appropriate public education) by not providing a one-to-one behavioral aide upon review of a January 2014 assessment.” (NOI, Page 1.) Oakland contends that the single issue is unclear because of Student’s reference that it had been out of compliance since August 26, 2013, since there is no explanation or facts offered to explain this sentence.

Student’s allegation, when read with his proposed resolution, clearly refers to whether Oakland has denied Student a FAPE by its failure to provide Student with a one-to-one

⁴ See, H.R.Rep. No. 108-77, 1st Sess. (2003), p. 115; Sen. Rep. No. 108-185, 1st Sess. (2003), pp. 34-35.

⁵ Sen. Rep. No. 108-185, *supra*, at p. 34.

⁶ *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.].

⁷ 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).

behavioral after reviewing the January 2014 assessment. The reference to Oakland being out of compliance since August 26, 2013, appears to be a supporting fact.

Student's complaint is sufficient to put Oakland has an awareness and understanding of the sole issue alleged and to permit Oakland to respond to the complaint and participate in a resolution session and mediation. Additionally, the complaint states an appropriate proposed resolution.

Therefore, Student's complaint is sufficient.

ORDER

1. The complaint is deemed sufficient under title 20 United States Code section 1415(c)(2)(C) and Education Code section 56502, subdivision (d)(1).

2. All mediation, prehearing conference, and hearing dates in this matter are confirmed.

DATE: July 30, 2014

/s/

ROBERT HELFAND
Administrative Law Judge
Office of Administrative Hearings