

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

CHAFFEY JOINT UNION HIGH SCHOOL
DISTRICT.

OAH CASE NO. 2008090090

DETERMINATION OF SUFFICIENCY
OF DUE PROCESS COMPLAINT

On September 2, 2008, Parent, on behalf of Student, filed a Due Process Hearing Request¹ (complaint) against the Chaffey Joint Union High School District (District). On September 8, 2008, Jean Martin, Ph.D., Program Manager for the West End Special Education Local Plan Area, filed a Notice of Insufficiency (NOI) on behalf of the District as to Student's complaint.

APPLICABLE LAW

The respondent to a due process hearing request has the right to challenge the sufficiency of the complaint. (20 U.S.C. § 1415(b) & (c);² Ed. Code, § 56502, subd. (c).) The party filing the complaint is not entitled to a hearing unless the complaint meets the requirements of section 1415(b)(7)(A).

Education Code section 56041.5 provides that when a student reaches the age of 18, the student's parents retain the right to receive notice of procedural safeguards from the school district. All other rights accorded a parent transfer to the student.

DISCUSSION

Parent filed the complaint on behalf of Student. The complaint alleges that the District is not providing Student with a Free Appropriate Public Education (FAPE). Student turned 18 years of age on September 9, 2006. Parent did not include with the complaint

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 All statutory citations are to Title 20 United States Code unless otherwise noted.

proof that either she has been appointed Student's conservator with power over his educational decisions, or Student has transferred his education rights to Parent, or that Student otherwise authorizes Parent to file this due process matter and represent his interests therein. Without any of these, Parent does not have the authority to file the complaint on behalf of Student.

ORDER

1. The District's challenge to the sufficiency of the complaint is granted.

2. Student shall be permitted to file an amended Complaint no later than 14 days from the date of this Order. If Parent files the complaint on behalf of Student, Parent shall include proof that she has been either been appointed Student's conservator with power over his educational decisions, or that Student has transferred his educational rights to Parent, or that Student authorizes Parent to represent his interests in this matter.³

3. If Student does not file an amended complaint within 14 days from the date of this Order, the complaint shall be dismissed.

4. All mediation and hearing dates are vacated.

Dated: September 10, 2008



PETER PAUL CASTILLO
Administrative Law Judge
Office of Administrative Hearings

³ The filing of the amended complaint will restart the due process hearing timelines. (§1415(c)(2)(E)(ii).)