

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENTS on behalf of STUDENT,

v.

CORONA-NORCO UNIFIED SCHOOL  
DISTRICT.

OAH CASE NO. 2010020194

DETERMINATION OF SUFFICIENCY  
OF DUE PROCESS COMPLAINT

On February 3, 2010, attorney Ralph O. Lewis, on behalf of Student, filed a Due Process Hearing Request (complaint) against the Corona-Norco Unified School District (District).<sup>1</sup> On February 19, 2010,<sup>2</sup> attorney Christopher J. Fernandes, on behalf of the District, filed 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.<sup>3</sup> The party filing the complaint is not entitled to a hearing unless the complaint meets the requirements of 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.<sup>4</sup> 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>5</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 Office of Administrative Hearings received the District's facsimile transmission at 5:04 p.m. on February 18, 2009. Although the District's NOI is not timely because it was not filed within 15-days after the District's receipt of Student's complaint, a ruling on the merits is made because the issue of pleading sufficient is subject to repetition in this matter. (20 U.S.C. § 1415(c)(2)(C); Ed. Code, § 56502, subd. (d)(1).)

<sup>3</sup> 20 U.S.C. § 1415(b) & (c).

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

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

The complaint provides enough information when it provides “an awareness and understanding of the issues forming the basis of the complaint.”<sup>6</sup> 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.<sup>7</sup> Whether the complaint is sufficient is a matter within the sound discretion of the administrative law judge.<sup>8</sup>

## DISCUSSION

The facts alleged in Student’s complaint are sufficient to put the District on notice of the issues forming the basis of the complaint. Student’s complaint identifies his issues and adequately relates facts about the problems to permit the District to respond to the complaint and to participate in a resolution session and mediation. Student’s complaint alleges sufficient facts regarding the District’s purported failure to make timely individual education program (IEP) offer, and that the District’s January 2009 IEP did not provide with a FAPE and has not implemented this IEP. Therefore, Student’s complaint is sufficient.

## ORDER

1. The complaint is sufficient under section 1415(b)(7)(A)(ii).
2. All mediation, prehearing conference, and hearing dates in this matter are confirmed.

Dated: February 26, 2010

/s/

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PETER PAUL CASTILLO  
Administrative Law Judge  
Office of Administrative Hearings

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<sup>6</sup> Sen. Rep. No. 108-185, *supra*, at p. 34.

<sup>7</sup> *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.].

<sup>8</sup> 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).