

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Consolidated Matters of:	
PARENT ON BEHALF OF STUDENT,	OAH CASE NO. 2010050134
v.	OAH CASE NO. 2010010864
SAUGUS UNION SCHOOL DISTRICT,	
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SAUGUS UNION SCHOOL DISTRICT,	OAH CASE NO. 2010031216
v.	
PARENT ON BEHALF OF STUDENT.	ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

On May 03, 2010 Parent on behalf of Student filed a Due Process Hearing Request<sup>1</sup> (complaint) naming Saugus Union School District (OAH Case NO. 2010050134). On May 4, 2010, District filed a Motion to Dismiss, which will be considered a Notice of Insufficiency (NOI) as to Student’s complaint. Student and District have also filed separate complaints in OAH Case Numbers 2010010864, and 2010031216, which have previously been consolidated under separate Order with this case. District’s NOI is denied.

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 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)) A complaint is required to include proposed

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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).

resolutions to the problem, to the extent known and available to the party at the time.  
(§1415(b)(7)(A)(ii)(IV).)

## DISCUSSION

Student's complaint in this case alleges four issues: 1) that District incorrectly determined that Student qualifies for eligibility as "emotionally disturbed; 2) that District failed to allow parents their right to examine and receive copies of Student's school records following their request on December 3, 2009; 3) that District failed to find Student eligible for speech and language (S&L) services at Student's February 10, 2010 IEP; and 4) that District denied parents a meaningful opportunity to participate in Student's March 18, 2009, May 18, 2009, and February 10, 2010 IEPs.

District argues in its NOI that Student's Issues 1, 2 and 4 are redundant with issues raised in the earlier consolidated cases. District contends that the date is vague in Student's third issue. The similarity of issues 1, 2 and 4 to the consolidated cases is not grounds to find those issues insufficient in this case. Student's Issue 3 alleges that the District failed to find Student eligible for S&L services at the February 10, 2010 IEP.

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 the issues and adequate related facts about the problem to permit District to respond to the complaint and participate in a resolution session and mediation, particularly here where this case has now been consolidated with Student's earlier complaint and District's complaint, which involve multiple similar issues of fact. Therefore, Student's statement of claims is sufficient. Student has met the statutorily required standard of stating a resolution to the extent known and available to Student at the time.

## ORDER

1. The amended complaint is sufficient under section 1415(b)(7)(A)(ii).
2. All mediation, prehearing conference, and hearing dates in this matter, as set in OAH's Order of consolidation dated May 10, 2010, are confirmed.

Dated: May 10, 2010

/s/

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ADRIENNE L. KRIKORIAN  
Administrative Law Judge  
Office of Administrative Hearings