

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

STUDENT,

v.

OAKLAND UNIFIED SCHOOL  
DISTRICT.

OAH CASE NO. 2012051022

ORDER OF DETERMINATION OF  
SUFFICIENCY OF DUE PROCESS  
COMPLAINT

On May 22, 2012 Student filed a Due Process Hearing Request<sup>1</sup> (complaint) naming Oakland Unified School District (District). On May 24, 2012, District filed a Notice of Insufficiency of complaint.

APPLICABLE LAW

The named parties to a due process hearing request have the right to challenge the sufficiency of the complaint.<sup>2</sup> 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.<sup>3</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>4</sup>

---

<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> 20 U.S.C. § 1415(b) & (c).

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

<sup>4</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>5</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.<sup>6</sup> Whether the complaint is sufficient is a matter within the sound discretion of the Administrative Law Judge.<sup>7</sup>

## DISCUSSION

Student alleges that he recently moved to the District, having previously received most of his education in the San Francisco Unified School District. The complaint states that he has been receiving special education services since August 2009, with an eligibility of specific learning disability (SLD). Therefore, Student came to the District with an individualized education program (IEP). The complaint further states that the District enrolled him in a special day class at Coliseum College Prep, but that the vice-principal denied him admission upon his arrival.

Student’s sole issue is that he was denied admission to Coliseum College Prep where District had allegedly already enrolled him in a special day class as part of his special education placement when he came to District from San Francisco USD. He therefore asserts that District changed his placement without prior written notice and that he was, at the time of the complaint, without a special education placement. Thus, District has denied him a free appropriate public education (FAPE). He seeks compensatory education for the time he was denied a placement and, further, seeks admission into the school in which District will provide special education placement.

District contends that the allegations are insufficient to inform District of the nature of Student’s claim so that it can knowledgeably reply. District further asserts that Student is enrolled and currently attending Coliseum College Prep. However, District’s factual assertion cannot be considered on a notice of insufficiency, since the complaint’s sufficiency is determined upon the face of the pleading, not additional information or facts which would require the taking of evidence.

---

<sup>5</sup> Sen. Rep. No. 108-185, *supra*, at p. 34.

<sup>6</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>7</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).

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 adequately states that he was denied admission by the vice-principal of the District school at which District had provided a special education placement in an SDC and that he consequently did not have a placement at the time 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.

Therefore, Student's statement of his single claim is sufficient.

#### ORDER

1. The complaint is sufficient under Title 20 United States Code section 1415(b)(7)(A)(ii).
2. All mediation, prehearing conference, and hearing dates in this matter are confirmed.

Dated: May 25, 2012

/s/

---

CLIFFORD H WOOSLEY  
Administrative Law Judge  
Office of Administrative Hearings