

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES COUNTY OFFICE OF  
EDUCATION and SOLEDAD  
ENRICHMENT ACTION CENTER.

OAH CASE NO. 2012090852

ORDER OF DETERMINATION OF  
SUFFICIENCY OF DUE PROCESS  
COMPLAINT

On September 25, 2012 Parent on behalf of Student (Student) filed a due process hearing request (complaint) <sup>1</sup> naming the Los Angeles County Office of Education (LACOE) and the Soledad Enrichment Action Center (SEAC). On October 5, 2012, LACOE filed a notice of insufficiency (NOI) as to Student's complaint, and a motion to dismiss portions of the complaint.<sup>2</sup>

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 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

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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 motion to dismiss will be addressed in a separate order.

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

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>

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 LACOE on notice of the issues forming the basis of the complaint. Student identifies LACOE as the chartering agency for SEAC, and also identifies LACOE as being responsible for providing special education services to eligible pupils who attend SEAC. Further, the complaint identifies the issues and adequate related facts about the problem to permit LACOE to respond to the complaint and participate in a resolution session and mediation.

For example, the complaint alleges that LACOE and SEAC did not comply with statutory requirements governing pupils who transfer into the charter school as Student did in February 2012. Further, Student alleges that when an individualized education program (IEP) team meeting was held to develop an IEP for Student, the IEP developed did not offer

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<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.

<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).

Student a FAPE, and therefore Student was not provided with a FAPE for the period of time at issue. The complaint provides detailed facts to support the allegation that the IEP was insufficient, as well as other facts to support the allegation that Student was denied a FAPE because the IEP was insufficient, if these facts are proven at a hearing.

The complaint identifies the problems and provides a factual basis sufficient for LACOE to be able to prepare for hearing, and participate in a resolution session and mediation. Therefore, Student's complaint is legally 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: October 9, 2012

/s/  
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REBECCA FREIE  
Administrative Law Judge  
Office of Administrative Hearings