

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SONOMA COUNTY OFFICE OF  
EDUCATION AND COTATI ROHNERT  
PARK UNIFIED SCHOOL DISTRICT.

OAH CASE NO. 2014060125

(AMENDED<sup>1</sup>) ORDER OF  
DETERMINATION OF SUFFICIENCY  
OF DUE PROCESS COMPLAINT

On May 30, 2014, Parents, on behalf of Student, filed a Due Process Hearing Request<sup>2</sup> (complaint) with the Office of Administrative Hearings naming the Sonoma County Office of Education and Cotati Rohnert Park Unified School District. On June 2, 2014, County timely filed a Notice of Insufficiency (NOI) as to Student's complaint. On June 3, 2014, District timely filed an 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 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>4</sup> These

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<sup>1</sup> The June 3, 2014 order failed to include mention of the NOI filed by County.

<sup>2</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>3</sup> 20 U.S.C. § 1415(b) & (c).

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

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

Student’s complaint contains six issues for hearing, which involve various hard to decipher disputes primarily focusing on one individual. None of the six issues are sufficiently clear whether County or District or both denied Student a FAPE or when the purported conduct occurred. The factual allegations do not set forth how the alleged actions failed to permit Student to make meaningful educational progress or prevented Parents from participating in Student’s educational decision making process. Therefore, Student failed to allege sufficient facts to put County and District on notice as to these issues for hearing.

Student’s proposed resolutions are that County and District change his educational placement and terminate a specified employee. A complaint is required to include proposed resolutions to the problem, to the extent known and available to the party at the time. (20 U.S.C. §1415(b)(7)(A)(ii)(IV).) The proposed resolutions related to changing Student’s placement, as stated in Student’s complaint, are well-defined requests that meet the statutorily required standard of stating a resolution to the extent known and available to Student at the time. However, OAH does not have jurisdiction to order the termination of employment.

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<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).

A parent who is not represented by an attorney may request that OAH provide a mediator to assist the parent in identifying the issues and proposed resolutions that must be included in a complaint.<sup>9</sup> Parents are encouraged to contact OAH for assistance if they intend to amend their due process hearing request.

### ORDER

1. Student's complaint is insufficiently pled under section title 20 United States Code 1415(c)(2)(D).
2. Student shall be permitted to file an amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II).<sup>10</sup>
3. The amended complaint shall comply with the requirements of title 20 United States Code section 1415(b)(7)(A)(ii), and shall be filed not later than 14 days from the date of this order.
4. If Student fails to file a timely amended complaint, the complaint will be dismissed.
5. All dates previously set in this matter are vacated.

DATE: June 5, 2014

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PETER PAUL CASTILLO  
Administrative Law Judge  
Office of Administrative Hearings

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<sup>9</sup> Ed. Code, § 56505.

<sup>10</sup> The filing of an amended complaint will restart the applicable timelines for a due process hearing.