BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2016110335
v.	ORDER OF DETERMINATION OF INSUFFICIENCY OF DUE PROCESS COMPLAINT AS TO RESPONDENT CALIFORNIA SCHOOL FOR THE DEAF RIVERSIDE
LOS ANGELES UNIFIED SCHOOL DISTRICT AND CALIFORNIA SCHOOL FOR THE DEAF RIVERSIDE	

On October 31, 2016, Parent on behalf of Student filed a Due Process Hearing Request[1] (complaint) with the Office of Administrative Hearings naming Los Angeles Unified School District and California School for the Deaf Riverside as respondents. On November 2, 2016, California School for the Deaf Riverside (hereafter CSDR) filed a Notice of Insufficiency 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. (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 title 20 United States Code section 1415(b)(7)(A).

The complaint is deemed sufficient unless a party notifies the Office of Administrative Hearings and the other party in writing within 15 days of receiving the complaint that the party believes the complaint has not met the notice requirements. (20 U.S.C. § 1415(c)(2)(C); Ed. Code, § 56502, subd. (d)(1).)

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 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.

[1] A request for a due process hearing under Education Code section 56502 is the due process complaint notice required under title 20 U.S.C. section 1415(b)(7)(A).

§ 1415(b)(7)(A)(ii)(III) & (IV).) 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. (See H.R.Rep. No. 108-77, 1st Sess. (2003), p. 115; Sen. Rep. No. 108-185, 1st Sess. (2003), pp. 34-35.)

The party against whom the complaint has been filed is entitled to know the nature of the specific allegations being made against it such that the party may be able to prepare a defense. (*Tadano v. Manney* (9th it. 1945) 160 F.2d 665, 667*; Hornsby v. Allen (5th Cir. 1964) 326 F.2d 605, 608).*

The complaint provides enough information when it provides "an awareness and understanding of the issues forming the basis of the complaint." (Sen. Rep. No. 108-185, *supra*, at p. 34.) 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. (*Alexandra R. ex rel. Burke v. Brookline School Dist.* (D.N.H., Sept. 10, 2009, CIV. 06-CV-0215-JL) 2009 WL 2957991[nonpub. opn.]; *Escambia County Bd. 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, 8:04CV2657T24EAJ) 2005 WL 2850076 [nonpub. opn.]; but cf. *M.S.-G v. Lenape Regional High School Dist. Bd. of Educ.* (3d Cir. 2009) 306 Fed.Appx. 772, 775 [nonpub. opn.].) Whether the complaint is sufficient is a matter within the sound discretion of the Administrative Law Judge. (*Assistance to States for the Educ. of Children with Disabilities & Preschool Grants for Children with Disabilities* (Aug. 14, 2006) 71 FR 46,540-46541, 46699.)

DISCUSSION

Student's complaint names both Los Angeles Unified School District and California School for the Deaf Riverside (CSDR) in the caption. While Student has alleged facts regarding incidents that occurred at CSDR, Student's complaint fails to allege any claims against CSDR or propose resolutions for which CSDR would be responsible. In the body of the complaint, Student does not allege that CSDR has any responsibility to the student, has participated in any decision making process concerning the Student or has provided or failed to provide any special education services or placement to the Student. Therefore, Student's statement of the claims pertaining to CSDR is insufficient.

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) at which time, all dates previously set in this matter will be considered vacated.[2]

3. The amended complaint shall comply with the requirements of title 20 U.S.C. 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, California School for the Deaf will be dismissed as a respondent and the hearing shall proceed only on issues stated in the complaint against Los Angeles Unified School District. Absent an amended complaint, all dates previously set in this matter shall proceed as scheduled.

DATE: November 10, 2016

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Penelope S. Pahl
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PENELOPE S. PAHL
Administrative Law Judge
Office of Administrative Hearings

[2] The filing of an amended complaint will restart the applicable timelines for a due process hearing.