BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. TAMALPAIS UNION HIGH SCHOOL DISTRICT.	OAH Case No. 2015010202 ORDER DENYING STUDENT'S MOTION TO COMPEL TAMALPAIS TO FILE A RESPONSE TO DUE PROCESS COMPLAINT

On December 16, 2014, Parent, on behalf of Student, filed a Due Process Hearing Request (complaint) naming Tamalpais Union High School District. On April 29, 2015, Attorney Peter Sturges, on behalf of Student, filed a motion for compel Tamalpais to file a response to Student's complaint. On May 4, 22015, Tamalpais filed its opposition to Student's motion.

APPLICABLE LAW

Individuals with Disabilities Education Act section 1415(c)(2)(B)(ii), and California Education Code section 56502, subdivision (d)(2)(A) require a party receiving a complaint to send a response to the complaint to the filing party within 10 days after the receipt of the complaint. Further, within this ten day period, pursuant to Section 1415(f)(1)(B)(i)(I), for local education agencies that have not sent a prior written notice to the parent regarding the subject matter contained in the complaint notice, the local educational agency shall send to the parent a response that shall include:

a. An explanation of why the agency proposed or refused to take the action raised in the complaint;

b. A description of other options that the IEP Team considered and the reasons why those options were rejected;

c. A description of each evaluation procedure , assessment, record, or report the agency used as the basis for the proposed or refused action; and

d. A description of the factors relevant to the agency's proposal or refusal.

DISCUSSION

Student requests that the Office of Administrative Hearings order Tamalpais to file a response to Student's complaint. While the IDEA and Education Code section 56502 create the obligation of a local education agency to send a parent a response after a parent files a due process complaint, neither grants an administrative law judge the authority to order a local educational agency to file a response. This is in contrast to Section 1415(c)(2)(D) which requires an administrative law judge to evaluate the sufficiency of a due process complaint if a timely notice of insufficiency is filed. Thus, the IDEA and Education Code section 56502 do not provide OAH the authority to require the District to file a response. Accordingly, Student's motion is denied.

IT IS SO ORDERED.

DATE: May 5, 2015

/s/

B. ANDREA MILES
Administrative Law Judge
Office of Administrative Hearings