BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. LOS ANGELES UNIFIED SCHOOL DISTRICT, COMPTON UNIFIED SCHOOL DISTRICT AND LOS ANGELES COUNTY OFFICE OF EDUCATION.	OAH Case No. 2017020217 ORDER DETERMINING DUE PROCESS COMPLAINT TO BE INSUFFICIENTLY PLED AS TO LACOE

On February 2, 2017, Student filed a Due Process Hearing Request[1] with the Office of Administrative Hearings naming Los Angeles Unified School District, Compton Unified School District, and Los Angeles County Office of Education.

On March 17, 2017, Student filed a First Amended Request for Due Process Hearing (amended complaint).

On March 27, 2017, LACOE filed a Notice of Insufficiency as to Student's amended complaint. Student has not filed an opposition to LACOE's NOI.

APPLICABLE LAW

The named parties to a due process hearing request have the right to challenge the sufficiency of the complaint.[2] 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 to the child; (2) facts relating to the problem; and (3) a proposed resolution

[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).

[2] 20 U.S.C. § 1415(b) & (c).

of the problem to the extent known and available to the party at the time.[3] 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.[4]

The complaint provides enough information when it provides "an awareness and understanding of the issues forming the basis of the complaint."[5] 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.[6] Whether the complaint is sufficient is a matter within the sound discretion of the Administrative Law Judge.[7]

DISCUSSION

According to the amended complaint, Student is currently attending 9th grade at Augustus Hawkins Health Center, a psychiatric hospital. There, he receives one hour of instruction daily. He has not been provided with any alternatives for education. Student claims that Augustus Hawkins is located within the boundaries of LACOE and Compton. The amended complaint goes further to explain that Student has a history of aggressive behaviors towards his peers and refusing to follow through with assignments. The Student contends that based on his behaviors and needs, a residential treatment center is the appropriate educational placement for him. Student argues that LACOE, Compton, and Los Angeles Unified failed to offer him that placement.

LACOE contends that the amended complaint fails to assert any factual allegations that it has any responsibility to the Student, has participated in any decision-making process concerning the Student, or has provided any special education services or placement to the Student. LACOE further claims that it has no responsibility to provide Student with a free

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[3] 20 U.S.C. § 1415(b)(7)(A)(ii)(III) & (IV).

[4] See H.R.Rep. No. 108-77, 1st Sess. (2003), p. 115; Sen. Rep. No. 108-185, 1st Sess. (2003), pp. 34-35.

[5] Sen. Rep. No. 108-185, *supra*, at p. 34.

[6] *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.].

[7] Assistance to States for the Educ. of Children with Disabilities & Preschool Grants for Children with Disabilities, 71 FR 46,540-46541, 46699 (Aug. 14, 2006).

appropriate public education. LACOE contends that Compton, which operates as its own Special Education Local Plan Area, assumes that responsibility since Augustus Hawkins falls within Compton's residency boundary.

Student's amended complaint alleges a single violation as to LACOE which is insufficiently pled. The amended complaint has no discussion as to whether LACOE was involved in the process of developing an individualized education program for Student or was involved with providing educational or related services to him. Student fails to make specific allegations regarding how LACOE was involved in Student's education and what actions LACOE took, or failed to take, that are alleged to deny Student a FAPE. The amended complaint does not allege any violation on the part of LACOE of its legal responsibilities. The amended complaint fails to allege enough facts to provide LACOE with an awareness and understanding of the alleged violations on its part.

For these reasons, the amended complaint is insufficiently pled in that it fails to provide LACOE with the required notice of the description of the problem and facts relating to the problem.

Among Student's proposed resolutions are that Student be educationally placed at a residential treatment center, he be provided compensatory education, and he receive speech and language services. 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 stated in Student's amended 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.

ORDER

1. Student's amended complaint is insufficiently pled as to LACOE under section title 20 United States Code 1415(c)(2)(D).

2. Student shall be permitted to file a second amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II).[8]

3. The second 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.

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

4. If Student fails to file a timely second amended complaint, the complaint will be dismissed as to LACOE and proceed as to Compton and Los Angeles Unified.

IT IS SO ORDERED.

DATE: March 30, 2017

DocuSigned by:
Rommel P. Cruz
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ROMMEL P. CRUZ
Administrative Law Judge
Office of Administrative Hearings