BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: STUDENT, v. LOS ANGELES COUNTY OFFICE OF EDUCATION AND LOS ANGELES UNIFIED SCHOOL DISTRICT.	OAH CASE NO. 2013050231 ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

On May 06, 2013 Student filed a Due Process Hearing Request[1] (complaint) naming Los Angeles County Office of Education (LACOE) and Los Angeles Unified School District (LAUSD).

On May 14, 2013, LACOE filed a Notice of Insufficiency (NOI) as to Student's complaint. LACOE argues that while Student provides background information concerning Student's attendance at a LACOE operated school during a period of time in the 2011-2012 school year the complaint fails to specifically allege facts supporting his allegations that LACOE denied Student a free appropriate public education (FAPE). Based upon the discussion below the complaint is sufficient and LACOE's NOI is denied.

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 (FAPE) to the child; (2) facts relating to the problem; and (3) a proposed

[1] 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).

[2] 20 U.S.C. § 1415(b) & (c).

resolution 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

The complaint alleges that Student, while incarcerated in a juvenile camp, attended a juvenile court school operated by LACOE sometime during the 2011-2012 school year. The complaint further alleges that some time prior to and after incarceration Student attended school within the boundaries of LAUSD. The complaint further raises the following FAPE issues: (1) whether District and LACOE failed to offer an appropriate placement and services to provide an educational benefit[8], (2) whether District and LACOE failed to conduct appropriate assessments in all areas of suspected disability, (3) whether District and LACOE failed to address Student's behavior problems, and (4) whether District denied a FAPE by expelling Student without a Manifestation meeting.

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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. 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.].

[7] 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).

[8] Student's complaint refers intermittently to "her" or "she" which appears to have been an error since the background information describes Student as a young man.

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's 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.

Regarding Student's proposed resolutions. 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 complaint are consistent with the issues and are well-defined. Accordingly, Student has met the statutorily required standard of stating a resolution to the extent known and available to him at the time.

ORDER

1. The complaint is deemed sufficient under Title 20 United States Code section 1415(c)(2)(C) and Education Code section 56502, subdivision (d)(1).

2. All mediation, prehearing conference, and hearing dates in this matter are confirmed.

Dated: May 16, 2013

/s/
STELLA OWENS-MURRELL
Administrative Law Judge
Office of Administrative Hearings