BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. LOS ANGELES UNIFIED SCHOOL DISTRICT, SOLEDAD ENRICHMENT ACTION CHARTER AND LOS ANGELES COUNTY OFFICE OF EDUCATION.	OAH Case No. 2016090128 ORDER OF DETERMINATION OF INSUFFICIENCY OF DUE PROCESS COMPLAINT

On August 24, 2016, Student filed a Due Process Hearing Request[1] (complaint) with the Office of Administrative Hearings naming Soledad Enrichment Action Charter (SEAC), Los Angeles Unified School District (LAUSD) and Los Angeles County Office of Education (LACOE). On September 2, 2016, LACOE filed a Notice of Insufficiency (NOI) as to the 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).

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. § 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

[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).

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 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, as against LACOE, alleges only that LAUSD and SEAC operate under the authority of LACOE. Student's complaint does not provide LACOE with the required notice of a description of the problem and the facts relating to the problem. An allegation that LACOE has oversight over other respondents is insufficient to provide LACOE with notice of the problem and facts that may relate to it.

ORDER

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

2. Student shall be permitted to file an amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II).[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, respondent LACOE will be dismissed and the matter will continue with regard to respondents LAUSD and SEAC.

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

5. All mediation, prehearing conference, and hearing dates in this matter are confirmed as to LAUSD and SEAC.

DATE: September 8, 2016

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Marian H. Tully
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MARIAN H. TULLY
Administrative Law Judge
Office of Administrative Hearings