BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

INGLEWOOD UNIFIED SCHOOL DISTRICT, LOS ANGELES COUNTY OFFICE OF EDUCATION, AND CALIFORNIA CHILDREN'S SERVICES.

OAH CASE NUMBER 2021030057

# ORDER DENYING MOTION TO COMPEL DEFINITIVE RESPONSE TO DUE PROCESS COMPLAINT

JUNE 29, 2021

On February 26, 2021, Student filed a Request for Due Process Hearing, referred to as a complaint, with the Office of Administrative Hearings, called OAH, naming Inglewood Unified School District. On May 25, 2021, OAH granted Student's Motion to Amend the complaint. Student named Inglewood Unified School District, Los Angeles County Office of Education, and California Children's Services in the amended complaint. On June 21, 2021, OAH issued an order dismissing several issues alleged against Los Angeles County. On June 22, 2021, Los Angeles County filed a response to Student's amended complaint.

On June 23, 2021, Student filed a Motion to Compel Los Angeles County to file a more definitive response to the amended complaint. On June 28, 2021, Los Angeles County filed an opposition to Student's motion. On June 29, 2021, Student filed a response to the opposition.

Student argues Los Angeles County's response to the complaint is legally insufficient as required under the Individuals with Disabilities Education Act, referred to as IDEA. Student further argues Los Angeles County's failure to file a legally compliant response disadvantages Student's ability to prepare for a due process hearing.

Los Angeles County argues the IDEA does not provide a process by which a party may challenge the sufficiency of a response. Los Angeles County further argues its response was legally compliant.

The IDEA requires a local educational agency to send the parent a response to the due process complaint within 10 days of receiving the complaint, unless the local educational agency has already sent a prior written notice regarding the subject matter contained in the complaint. (20 U.S.C. § 1415(c)(2)(B)(i)(I); 34 C.F.R. § 300.508(e)(1).) The response must include: (1) an explanation of why the agency proposed or refused to take the action raised in the complaint; (2) a description of other options the individualized education program team considered and the reasons why those options were rejected; (3) a description of each evaluation procedure, assessment, record, or report the agency used as the basis for the proposed or refused action; and (4) a description of the factors that are relevant to the agency's proposal or refusal. (*Ibid.*)

OAH cannot go forward with a hearing when the local educational agency fails to file a response to the complaint. (*M.C. by and through M.N. v. Antelope Valley Union High School District* (9th Cir. 2017) 858 F.3d 1189, 1199.) Failure to file a response puts

the opposing party at a serious disadvantage in preparing for the hearing, as it must guess what defenses the opposing party will raise. (*Ibid.*)

Student's Motion to Compel does not allege Los Angeles County failed to provide Student with prior written notice regarding the subject matter in the complaint. Without this information, OAH cannot determine whether Los Angeles County's response must comport with the prior written notice standards described in title 20 United States Code section 1415(c). Moreover, Student failed to cite any legal authority it has to challenge the sufficiency of Los Angeles County's response. While title 20 United States Code section 1415(c) allows a responding party to challenge the sufficiency of a due process complaint, there is no similar provision in the IDEA that allows a petitioner to challenge the response of a responding party. The ruling in *M.C. v. Antelope Valley Union High School District* requires only that a response is filed before a case may proceed to a hearing, and Los Angeles County has complied with that requirement. Accordingly, Student's Motion to Compel is denied.

IT IS SO ORDERED.

Tara Doss

Tara Doss
Administrative Law Judge
Office of Administrative Hearings