BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. LOS ANGELES UNIFIED SCHOOL DISTRICT.	OAH Case No. 2017080149 ORDER GRANTING MOTION TO COMPEL

On September 18, 2017, Student filed a motion to compel Los Angeles Unified School District to provide it with a response to Student's request for due process (complaint). Los Angeles did not respond to the motion.

APPLICABLE LAW

When a student files a complaint pursuant to the Individuals with Disabilities Education Act, with the Office of Administrative Hearings, the IDEA requires the named school district to provide a written response to the complaint within 10 days of filing. (20 U.S.C. § 1415(c)(2)(B); Ed. Code § 56502 subd. (d)(2)(A).) The Ninth Circuit recently emphasized the importance of the school district's response in *M.C. v. Antelope Valley Union High School District* (9th Cir. 2017) 858 F.3d 1189, at pages 1199-1200. The court held that OAH could not hear a case unless the school district has provided the student with a written response to the complaint. If a response is not provided to the student, he is forced to prepare for hearing without knowledge of his opponents defenses. This is particularly true in IDEA cases because there is no discovery process. (*Ibid.*)

DISCUSSION

Student filed his complaint on July 31, 2017.[1] The complaint is 33 pages long and contains 10 issues. In the complaint Student claims that while he was eligible for special education in Los Angeles from 2007 to 2009, he was wrongfully exited from special education in 2009. Student claims that he should have been eligible for special education for the two years preceding the filing of his complaint, and also makes other claims.

[1] The complaint was received by OAH after 5:00 p.m. on July 28, 2017, so it is deemed filed on July 31, 2017, the next business day.

Student attached to his motion to compel the "response" he received from Los Angeles. The "response" is a letter from a Los Angeles due process specialist, two and one-half pages in length, and merely recites each of Student's 10 issues, as well as each of Student's proposed resolutions. Then it states "The District did not offer placement and services because: The District considered input from the IEP [Individualized Education Program] team members at the 11/05/09 IEP team meeting." The next paragraph discusses participation in a resolution session and mediation, and the letter ends with a paragraph that provides the telephone number for the due process specialist. This "response" does not comply with either statutory or case law, and is insufficient. Los Angeles shall, within two business days from the date of this order, provide Student with an actual written response to his complaint that meets the requirements of title 20 U.S.C., section 1415, subdivision (c)(2)(B).

ORDER

Los Angeles shall file with OAH, and serve on Student, a comprehensive written response to Student's complaint that meets all legal requirements, no later than 5:00 p.m. on October 3, 2017.

DATE: September 29, 2017

DocuSigned by:

Rebecca Freie

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REBECCA FREIE
Administrative Law Judge
Office of Administrative Hearings