BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
ABC UNIFIED SCHOOL DISTRICT,	OAH CASE NO. 2013040604
v.	ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT
PARENT ON BEHALF OF STUDENT.	

On April 12, 2013, the ABC Unified School District (District) filed a due process hearing request[1] (complaint) naming Parent on behalf of Student.

On April 12, 2013, Student filed a timely notice of insufficiency as to District's complaint.

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).

Education Code section 56501, subsection (a)(4) provides that a public agency may request a due process hearing where "[t]here is a disagreement between a parent or guardian and a local educational agency regarding the availability of a program appropriate for the child, including the questions of financial responsibility" for that program.

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

District's complaint alleges that, in February 2013, Student filed a complaint against District for failing to provide her with a FAPE, in OAH case number 2013020068 (Student's Case). District's complaint further alleges that Student moved on March 26, 2013, and that the Chino Unified School District (Chino) has "advised District that it will take over the IEP process" for Student. District alleges that the complaint in Student's Case "can be read and interpreted to mean that the District has an obligation even after March 26, 2013 to serve [Student] in some capacity." District seeks an order finding that District had no obligation to provide special education and related services to Student after March 26, 2013.

The allegations of District's complaint, filed on April 12, 2013, taken as a whole, state sufficient facts to describe a disagreement between Student and District concerning District's financial responsibility to provide an appropriate program for Student. It also

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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).

provides a proposed resolution, that is, an order that Chino is responsible for Student's special education and related services as of March 26, 2013. Therefore, District's complaint is sufficiently pled to put Student on notice as to the basis of District's claims.

ORDER

1. District's complaint is sufficiently pled under Title 20 United States Code section 1415(b)(7)(A)(ii).

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

Dated: April 18, 2013

/s/

ALEXA J. HOHENSEE
Administrative Law Judge
Office of Administrative Hearings