BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2014110123
v.	ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT
RICHLAND SCHOOL DISTRICT.	

On October 29, 2014 Parent on behalf of Student filed with the Office of Administrative Hearings a Due Process Hearing Request[1] (complaint) naming the Richland School District as respondent.

On November 14, 2014, Richland filed with OAH a Notice of Insufficiency as to Student's complaint. Richland contends that the complaint is not sufficient because it fails to contain any proposed resolution.[2]

APPLICABLE LAW

The named parties to a due process hearing request have the right to challenge the sufficiency of the complaint.[3] 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).

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[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] Richland also requests that the matter be dismissed because Student failed to participate in the resolution session in good faith. This issue is not before OAH in this pleading. Should Richland desire to raise this issue, it must do so by a motion to dismiss.

[3] 20 U.S.C. § 1415(b) & (c).

The complaint is deemed sufficient unless a party notifies the Office of Administrative Hearings and the other party in writing within 15 days of receiving the complaint that the party believes the complaint has not met the notice requirements.[4]

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.[5] 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.[6]

The complaint provides enough information when it provides "an awareness and understanding of the issues forming the basis of the complaint."[7] 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.[8] Whether the complaint is sufficient is a matter within the sound discretion of the Administrative Law Judge.[9]

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[4] 20 U.S.C. § 1415(c)(2)(C); Ed. Code, § 56502, subd. (d)(1).

[5] 20 U.S.C. § 1415(b)(7)(A)(ii)(III) & (IV).

[6] See, H.R.Rep. No. 108-77, 1st Sess. (2003), p. 115; Sen. Rep. No. 108-185, 1st Sess. (2003), pp. 34-35.

[7] Sen. Rep. No. 108-185, *supra*, at p. 34.

[8] *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.].

[9] 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).

DISCUSSION

Student's complaint was filed on October 29, 2014. The proof of service attached to the complaint indicates that the complaint was filed with OAH and served on Richland via facsimile on October 29, 2014 at 11:10 a.m. by Student's attorney. In its NOI, Richland does not indicate when it received service of the complaint.

Richland's NOI was dated, filed with OAH, and served on November 14, 2014, which is more than 15 days after Richland received Student's complaint. District's NOI was not filed within the statutorily required timeline. Therefore, Student's complaint is deemed sufficient.

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.

DATE: November 17, 2014

/S/

ROBERT HELFAND
Administrative Law Judge
Office of Administrative Hearings