BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. LOS ANGELES UNIFIED SCHOOL DISTRICT AND LOS ANGELES COUNTY OFFICE OF EDUCATION.	OAH Case No. 2018010087 ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT AS TO LOS ANGELES COUNTY OFFICE OF EDUCATION

On December 29, 2017, Student filed a Due Process Hearing Request[1] (complaint) with the Office of Administrative Hearings, naming Los Angeles County Office of Education and Los Angeles Unified School District. On January 8, 2018, LACOE filed a Notice of Insufficiency as to Student's complaint as to LACOE.

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

[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).

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 alleges Student, age 14, attended District schools from 2008 until June 2017. In June 2017, Student was arrested and placed in a juvenile hall facility, and LACOE thereafter provided Student's education through the date Student's complaint was filed.

The complaint contains detailed allegations concerning Student's escalating history of behavioral and academic issues in District schools. It alleges that Student required placement in a residential treatment center to address his refusal to attend school, his declining mental and emotional state, and his history of family trauma. Student contends District denied him a free appropriate public education by, among other things, failing to provide such a placement.

As to LACOE, the complaint contains a heading alleging that LACOE failed to provide Student the intensive level of educational supports Student needed. However, the complaint cites with approval the stringent supervision and 1:1 focused attention provided by LACOE, noting that it has led to improved behavior and access to education for Student. The complaint notes that LACOE was providing Student supports including: probation supervision 24 hours per day, seven days per week; a restricted living environment; structured daily routines; additional one-to-one supervision; access to Department of Mental Health services from psychologists, social workers and psychiatrists; and daily contact with a Department of Mental Health service provider. The complaint does not point to any specific educational supports that LACOE failed to provide.

Student's description of his problem with LACOE, and the facts relating to the problem, do not provide an awareness and understanding of the issues forming the basis of Student's complaint against LACOE. Student's complaint is therefore insufficiently pled as to LACOE.

ORDER

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

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, the complaint will be dismissed as to LACOE, and shall proceed only as to District.

5. All dates previously set in this matter are confirmed.

DATE: January 10, 2018

DocuSigned by:

ROBERT G. MARTIN
Administrative Law Judge
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Office of Administrative Hearings

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