BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. SAN LUIS COASTAL UNIFIED SCHOOL DISTRICT AND LAKE ELSINORE UNIFIED SCHOOL DISTRICT.	OAH CASE NO. 2013060510 ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT AND DISMISSAL OF STUDENT'S MOTION TO STRIKE NOTICE OF INSUFFICIENCY

On June 13, 2013 Parent on behalf of Student (Student) filed a Due Process Hearing Request[1] (complaint) naming San Luis Costal Unified School District (San Luis) and Lake Elsinore Unified School District (Lake Elsinore).

On June 20, 2013, Lake Elsinore filed a Notice of Insufficiency (NOI) as to Student's Issue One of his complaint.[2] On June 21, 2013, Student filed a Motion to Strike Lake Elsinore's NOI, in lieu of merely filing an Opposition to the NOI. On June 21, 2013, San Luis filed a Response to the complaint, but neither filed an opposition nor joined in Lake Elsinore's NOI.

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).

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,

[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] Issue One of Student's complaint is the only issue which applies to Lake Elsinore.

[3] 20 U.S.C. § 1415(b) & (c).

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 resolution of the problem to the extent known and available to the party at the time.[4] 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.[5]

The complaint provides enough information when it provides "an awareness and understanding of the issues forming the basis of the complaint."[6] 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.[7] Whether the complaint is sufficient is a matter within the sound discretion of the Administrative Law Judge.[8]

DISCUSSION

The facts alleged in Student's complaint are sufficient to put Lake Elsinore on notice of the issues forming the basis of the complaint. Student's complaint identifies the issues and adequately relates facts about the problem to permit Lake Elsinore to respond to the complaint and participate in a resolution session and mediation. Lake Elsinore's grounds for the NOI are based as a response in its allegation of facts which go to the very basis and defense of Issue One of Student's complaint. Clearly, Lake Elsinore has more than "an awareness and understanding of the issues forming the basis of the complaint (Issue One). Further, although Student's complaint mentions that Father continued to reside within Lake Elsinore's boundaries, there are no allegations in the complaint alleging Lake Elsinore's responsibility for Student after he moved with his Mother to San Luis.

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[4] 20 U.S.C. § 1415(b)(7)(A)(ii)(III) & (IV).

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

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

[7] *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.].

[8] 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).

Therefore, Student's statement of Issue One, as it pertains to Lake Elsinore is sufficient, and no other issues have been raised as to the sufficiency of the complaint as it relates to San Luis. Further, as Student's complaint has been deemed sufficient as to both parties in its entirety, Student's Motion to Strike is moot, and is dismissed without prejudice.

ORDER

1. The complaint is sufficient under Title 20 United States Code section 1415(b)(7)(A)(ii).

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

3. Student's Motion to Strike the NOI is dismissed without prejudice.

Dated: June 21, 2013

/s/
JUDITH PASEWARK
Administrative Law Judge
Office of Administrative Hearings