BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENTS ON BEHALF OF STUDENT, v. WASHINGTON UNIFIED SCHOOL DISTRICT AND THE YOLO COUNTY OFFICE OF EDUCATION.	OAH CASE NO. 2013110121 ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

On October 31, 2013, Parents on behalf of Student (Student) filed with the Office of Administrative Hearings (OAH) a Due Process Hearing Request[1] (complaint) naming the Washington Unified School District (District) and the Yolo County Office of Education (YCOE) as respondents. On November 13, 2013, the District filed a Response to the complaint.

On November 15, 2013, YCOE filed a Notice of Insufficiency (NOI) as to Student'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).

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

Student alleges in the complaint that she lives in the District and her Individualized Education Program (IEP) has placed her at the Greengate School, a program operated by YCOE. Student contends that she is being deprived of a free appropriate public education (FAPE) because (a) she is subjected to a long and unsafe bus ride in light of her medical condition; (b) no services were provided to her from November 2012 through April 1, 2013 when she was unable to physically attend school on account of injury; (c) she was not provided sufficient home and hospital services from April 1, 2013, to May 31, 2013; and (d) she was not provided with any related services, including assistive technology, occupational therapy and speech and language, from November 2012 through present

The facts alleged in Student's complaint are sufficient to put the YCOE on notice of the issues forming the basis of the complaint. Student's complaint identifies the issues and

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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).

adequately relates facts about the problem to permit YCOE to respond to the complaint and participate in a resolution session and mediation.

Therefore, Student's complaint is sufficient.

ORDER

1. The complaint is sufficient as to Yolo County Office of Education 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.

Dated: November 19, 2013

/s/

ROBERT HELFAND
Administrative Law Judge
Office of Administrative Hearings