

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT; LOS ANGELES COUNTY
OFFICE OF EDUCATION;
WESTCHESTER SECONDARY
CHARTER; AND STELLA MIDDLE
CHARTER ACADEMY.

OAH Case No. 2014070217

ORDER OF DETERMINATION OF
SUFFICIENCY OF DUE PROCESS
COMPLAINT

On June 25, 2014, Student filed a Due Process Hearing Request¹ (complaint) naming Los Angeles Unified School District, Los Angeles County Office of Education (LACOE), Westchester Secondary Charter, and Stella Middle Charter Academy. On July 10, 2014, LACOE filed a Notice of Insufficiency (NOI) as to Student's complaint.

APPLICABLE LAW

A due process hearing request's named parties can challenge a complaint's sufficiency.² The party filing the complaint is entitled to a hearing only if the complaint meets the requirements of title 20 United States Code section 1415(b)(7)(A).

A complaint is sufficient if it: (1) describes the nature of the problem relating to a proposed initiation or change concerning identifying, evaluating, or educationally placing the child, or providing that child a free appropriate public education FAPE; (2) asserts facts relating to the problem; and (3) includes a proposed resolution(s) to the extent known and available to the party at the time the complaint is filed.³ These requirements prevent vague

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).

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

and confusing complaints, and promote fairness by providing the parties' sufficient information to prepare for the hearing and to participate in resolution sessions and mediation.⁴ A complaint is also required to include proposed resolutions to the problem, to the extent known and available to the party at the time. (20 U.S.C. §1415(b)(7)(A)(ii)(IV).)

The complaint is sufficient when it provides "an awareness and understanding of the issues forming the basis of the complaint."⁵ The pleading requirements should be liberally construed due to the Individuals with Disabilities Education Act's broad remedial purpose and the due process hearings' relative informality.⁶ Whether the complaint is sufficient is a matter within the sound discretion of the Administrative Law Judge.⁷

DISCUSSION

Student alleges sufficient facts to put LACOE on notice of the issues forming the basis of the complaint. Student raised three issues alleging that "respondents" collectively denied him a FAPE. Specifically, he challenged placement and behavioral intervention services; goals and objectives; and the failure to conduct a neuro-psychological and behavioral assessment. Student's complaint also identified four proposed resolutions: placement in a non-public school; behavioral support services; independent assessments; and compensatory education. The resolutions are well defined and Student has met the statutorily required standard of stating a resolution to the extent known and available to him at the time the complaint was filed.

LACOE essentially argues that the complaint is not sufficient because there are no specific facts or issues alleged against LACOE. LACOE further states that it is Westchester's chartering entity, and that pursuant to the charter petition, Westchester operates as its own local education agency for special education purposes. Even if true, that

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).

does not render the complaint insufficient. LACOE may have grounds to file a separate motion to dismiss if it believes that it is not a proper party to this action. The complaint, however, is sufficient to put LACOE on notice of the issues forming the basis of the complaint.

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.

DATE: July 14, 2014

/s/

JOY REDMON
Administrative Law Judge
Office of Administrative Hearings