BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH CASE NO. 2013060510
v.	ORDER DENYING NOTICE OF INSUFFICIENCY OF FIRST AMENDED COMPLAINT BY LAKE ELSINORE
SAN LUIS COASTAL UNIFIED SCHOOL DISTRICT AND LAKE ELSINORE UNIFIED SCHOOL DISTRICT	

On June 13, 2013, Parent on behalf of Student (Student) filed a Due Process Hearing Request[1] (complaint) with the Office of Administrative Hearings (OAH) 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) which OAH denied on June 12, 2013. On June 24, 2013, San Luis filed a NOI as to Student's complaint, which OAH denied on June 24, 2013.

On July 1, 2013, Student filed a motion for leave to amend the complaint and an amended complaint. OAH granted the motion on July 3, 2013. Lake Elsinore timely filed an NOI as to the amended complaint on July 9, 2013. San Luis did not join in Lake Elsinore's NOI. For the reasons discussed below, Lake Elsinore's NOI is denied

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,

[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).

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.[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

The amended complaint alleges that Lake Elsinore denied Student a FAPE during the 2011-2012 school year. Student includes proposed resolutions.

Issue 1 identifies two "problems" each of which contain multiple subparts. Problems 1 and 2 are alleged specifically and only against Lake Elsinore.[8] The problems are supported by allegations of facts which, when read in conjunction with Problems 1 and 2 are sufficient

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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).

[8] Problems 3 and 4 in Issue 1, and all of the problems in Issue 2 are alleged specifically and only against San Luis, the sufficiency of which are not at issue or addressed in this Order.

to put Lake Elsinore on notice of the issues forming the basis of the complaint against it, to respond to the complaint and to participate in a resolution session and mediation.

Lake Elsinore's grounds for the NOI go to the very basis and its defense of Issue 1, problems 1 and 2, including subparts, thus making it clear that Lake Elsinore has an "awareness and understanding" of the issues forming the basis for the complaint against it. An NOI is not the vehicle to determine the merits of the case, which must be done by the hearing judge after the parties have an opportunity to present evidence.

For the reasons discussed above, the complaint is sufficient as it pertains to the claims against Lake Elsinore.

ORDER

1. Problems 1 and 2, including all subparts, of Issue 1 of the amended complaint are sufficient under Title 20 United States Code section 1415(b)(7)(A)(ii) as to Lake Elsinore.

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

Dated: July 10, 2013

/s/
ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings