BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. HAWTHORNE SCHOOL DISTRICT, LOS ANGELES COUNTY OFFICE OF EDUCATION, AND SOUTHWEST SPECIAL EDUCATION LOCAL PLAN AREA.	OAH CASE NO. 2014031045 ORDER DENYING SELPA'S NOTICE OF INSUFFICIENCY

On March 26, 2014, Student filed a Due Process Hearing Request[1] (complaint) naming Hawthorne School District (District), Los Angeles County Office of Education (LACOE), and Southwest Special Education Local Plan Area (SELPA).

On April 8, 2014, SELPA filed a Notice of Insufficiency (NOI) as to Student's complaint. This Order only addresses the sufficiency of the complaint as to SELPA.

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 resolution of the problem to the extent known and available to the party at the time.[3] These

[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).

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's complaint alleges that District, LACOE, and SELPA have denied Student a free appropriate public education in the 2012-2013 and 2013-2014 school years and extended school years. Every allegation of the complaint concerns the actions or inactions of the "respondents"; Student's complaint defines the term "respondents" to collectively include District, LACOE, and SELPA. Therefore, in every place the word "respondents" appears, the word SELPA could be read into the complaint.

Specifically, the complaint alleges that District, LACOE, and SELPA failed to offer or provide Student: assessments in all areas of suspected disability (specifically a behavioral assessment, social skills and/or recreational therapy assessment, occupational therapy assessment, and adapted physical education assessment); an appropriate placement and supports; appropriate types, durations and frequencies of related services; and appropriate goals. The complaint also alleges that District, LACOE, and SELPA predetermined Student's offer of placement and services and deprived Student's parents of the opportunity for participation in the development of Student's individualized education program by failing

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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).

to make a specific offer regarding placement, services, and supports for Student during the 2013 extended school year. Student lists several proposed resolutions. The complaint states Student's name and date of birth, Student's residence address, and the name of the District elementary school Student attended.

A review of the complaint shows that Student provided ample "facts related to the problem" to provide SELPA the requisite "awareness and understanding of the issues forming the basis of [Student's] complaint." Student alleges SELPA's (and the other respondents') placement of Student at Ramona Elementary School in a special day class with limited typical peer exposure and mainstreaming was inappropriate to meet Student's unique needs in the areas of behavior and social skills. Student alleges his individualized educational programs lacked appropriate designated instruction and services (the California state statutory term for what the IDEA calls related services), specifically: a lack of orthopedic services and specialized services for low incidence disabilities; a lack of occupational therapy addressing numerous itemized areas of need; a lack of social skills services and/or recreational therapy; a lack of intensive language and speech services; and a lack of a one-on-one aide to support Student's behavior and peer interactions. Student alleges SELPA (and the other respondents) failed to set appropriate, measurable, and meaningful goals for Student.

In sum, the facts alleged in Student's complaint are sufficient to put SELPA on notice of the issues forming the basis of the complaint. Student's complaint identifies the issues and adequate related facts about the problem to permit SELPA to respond to the complaint and participate in a resolution session and mediation. Accordingly, the complaint is sufficient.

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: April 9, 2014

/s/

KARA HATFIELD
Administrative Law Judge
Office of Administrative Hearings