

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

MONTECITO UNION SCHOOL
DISTRICT & SANTA BARBARA
SCHOOL DISTRICT.

OAH CASE NO. 2010110031

DETERMINATION OF SUFFICIENCY
OF DUE PROCESS COMPLAINT

On November 18, 2010, Student filed a First Amended Due Process Complaint (complaint) naming Montecito Union School District (MUSD) and Santa Barbara School District (SBSD) as respondents. On November 29, 2010, MUSD filed a Notice of Insufficiency (NOI) as to the first amended complaint. As discussed below, the first amended complaint is sufficient.

APPLICABLE LAW

The named parties to a due process hearing request have the right to challenge the sufficiency of the complaint.¹ 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.² 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.³

¹ 20 U.S.C. § 1415(b) & (c).

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

³ See, H.R.Rep. No. 108-77, 1st Sess. (2003), p. 115; Sen. Rep. No. 108-185, 1st Sess. (2003), pp. 34-35.

The complaint provides enough information when it provides “an awareness and understanding of the issues forming the basis of the complaint.”⁴ 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.⁵ Whether the complaint is sufficient is a matter within the sound discretion of the Administrative Law Judge.⁶

DISCUSSION

The complaint alleges three issues. Issues Two and Three are directed solely against SBSB and are not at issue herein. Issue One is specifically directed toward both MUSD and SBSB, and is the subject of MUSD’s NOI.⁷

Issue One alleges the following relevant facts. Student attended school in MUSD through the end of sixth grade in the 2009-2010 school year, but did not meet his annual goals. During an IEP meeting in spring of 2010 convened by MUSD and SBSB, both respondents denied Student a free appropriate public education (FAPE) by offering him a junior high school placement at SBSB rather than allowing him to repeat sixth grade at MUSD, as parents requested. The complaint alleged that respondents’ offer was based on Student’s age alone rather than his unique needs, and was inappropriate because the seventh grade placement would not allow Student to build his independence in a familiar environment, and because the curriculum inappropriate for Student. Therefore, the offer was not designed to address Student’s unique educational needs, was not reasonably calculated to provide Student with educational benefit, and denied Student a FAPE.

⁴ Sen. Rep. No. 108-185, *supra*, at p. 34.

⁵ *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.].

⁶ 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).

⁷ OAH granted a prior NOI by MUSD, with respect to similar allegations in Student’s original complaint, because they were directed solely against SBSB. The FAC cures this defect, by specifically directing these allegations against both respondents.

MUSD contends that the complaint is impermissibly vague. However, the facts alleged in the complaint are sufficient to put MUSD on notice of the issues forming the basis of the complaint. The complaint identifies the issues and adequate related facts about the problem to permit MUSD to respond to the complaint and participate in a resolution session and mediation.

MUSD also contends that Student's contentions are meritless. MUSD's NOI fails because special education law contains no procedure that would allow for a fact-based, pre-hearing determination on the merits.

MUSD further argues that, although only Issue One is raised against it, Student's proposed resolutions seek remedies against both MUSD and SBSB that pertain to Issues Two and Three, which are stated solely against SBSB. A complaint is 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 proposed resolutions stated in Student's FAC are not well-defined as against MUSD. However, Student has met the statutorily required standard of stating a resolution to the extent known and available to him at the time.

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.

Dated: December 01, 2010

/s/

JUNE R. LEHRMAN
Administrative Law Judge
Office of Administrative Hearings