

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SAN FRANCISCO UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2011060522

ORDER OF DETERMINATION OF
SUFFICIENCY OF DUE PROCESS
COMPLAINT

On June 09, 2011 Student filed a Due Process Hearing Request¹ (complaint) naming District as the respondent. On June 14, 2011, District filed a Notice of Insufficiency (NOI) as to Student's complaint. As discussed below, the complaint is sufficient.

APPLICABLE LAW

Parents have the right to present a complaint "with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child."²

The named parties to a due process hearing request have the right to challenge the sufficiency of the complaint.³ 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)(6); Ed. Code, § 56501, subd. (a).

³ 20 U.S.C. § 1415(b) & (c).

resolution of the problem to the extent known and available to the party at the time.⁴ 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.⁵

The complaint provides enough information when it provides “an awareness and understanding of the issues forming the basis of the complaint.”⁶ 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.⁷ Whether the complaint is sufficient is a matter within the sound discretion of the Administrative Law Judge.⁸

The complaint must also state the name of the child, the address of the residence of the child, or available contact information in the case of a homeless child, and the name of the school the child is attending.⁹

DISCUSSION

The facts alleged in Student’s complaint are sufficient to put District on notice of the issues forming the basis of the complaint. The complaint alleges that District has informed

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

⁵ See, H.R.Rep. No. 108-77, 1st Sess. (2003), p. 115; Sen. Rep. No. 108-185, 1st Sess. (2003), pp. 34-35.

⁶ Sen. Rep. No. 108-185, *supra*, at p. 34.

⁷ *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.].

⁸ 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).

⁹ 20 U.S.C. § 1415(b)(7)(A)(ii); Ed. Code, § 56502, subd. (c)(1)(A).

Parent of its intent to change Student's placement. Student's complaint identifies the issues and adequate related facts about the problem to permit District to respond to the complaint and participate in a resolution session and mediation. In essence, Student is alleging that District infringed parents rights to participate in an IEP team meeting regarding placement and that the proposed change is not appropriate. The allegation is supported by the related facts of District sending a form letter informing Student of the change in placement. Therefore, Student's statement of the issues is sufficient.

In addition to challenging the sufficiency of the facts alleged as to the issues, District's counsel also argues that the complaint is insufficient because Student's complaint fails to identify his home address, or whether he lives with his mother, whose address is identified on the complaint. That argument fails because the complaint alleges that District sent prior written notice of the change in placement to Mother's address, which can be inferred as Student's address of residence. Therefore, the complaint meets the requirements of Education Code section 56502, subdivision (c)(1)(A).

District also contends that the proposed resolution is insufficient because it is not "well-defined." However, Student could not be more clear that the proposed resolution at this time is continued placement. Nothing further is required to provide adequate notice to District.

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: June 15, 2011

/s/

JUNE R. LEHRMAN
Administrative Law Judge
Office of Administrative Hearings