

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT on behalf of STUDENT,

v.

SADDLEBACK VALLEY UNIFIED
SCHOOL DISTRICT, ORANGE COUNTY
HEALTH CARE AGENCY AND
ORANGE COUNTY DEPARTMENT OF
SOCIAL SERVICES.

OAH CASE NO. 2010030698

DETERMINATION OF SUFFICIENCY
OF DUE PROCESS COMPLAINT

On March 03, 2010, Patricia E. Cromer, attorney for Student, filed a Due Process Hearing Request¹ (complaint) against the Saddleback Valley Unified School District (District), the Orange County Health Care Agency (Health Agency) and the Orange County Department of Social Services (Social Services). On March 3, 2010, Michelle L. Palmer, attorney for Health Agency filed a Notice of Insufficiency (NOI) as to Student's complaint.

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 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 requirements prevent vague and confusing complaints, and promote fairness by providing the

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)

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 complaint raises a single issue regarding whether the use of Student’s supplemental security income (SSI) for educational services constitutes a denial of FAPE and a determination of which agency is the responsible agency for purposes of reimbursement. The related facts alleged in Student’s complaint are sufficient to put District, Health Agency and Social Services on notice of the issues forming the basis of the complaint, and permit them to respond to the complaint and participate in a resolution session and mediation. The complaint is legally sufficient.

Health Agency contends that Student has not alleged that Health Agency violated Student’s rights or denied Student a FAPE. Health Agency asserts that it is not a proper party to this action. An NOI is not the proper means by which to seek determination of jurisdictional contentions, as the only determination to be made upon the filing of an NOI is the sufficiency of the complaint on its face. Health Agency’s jurisdictional contentions may be litigated at hearing as an affirmative defense, or may be addressed in a Motion to Dismiss that is supported by sufficient facts.

Finally, a complaint is required to include proposed resolutions to the problem, to the extent known and available to the party at the time. (§1415(b)(7)(A)(ii)(IV).) Student has met the statutorily required standard of stating a resolution to the extent known and available to her at the time.

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).

ORDER

1. The complaint is sufficient under section 1415(b)(7)(A)(ii).
2. All mediation, prehearing conference, and hearing dates in this matter are confirmed.

Dated: March 11, 2010

/s/

BOB VARMA
Administrative Law Judge
Office of Administrative Hearings