

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

SAUGUS UNION SCHOOL DISTRICT,

v.

PARENT on behalf of STUDENT.

OAH CASE NO. 2010031216

DETERMINATION OF SUFFICIENCY  
AND ORDER DENYING MOTION TO  
DISMISS

On March 16, 2010, attorney Lauri A. LaFoe filed with the Office of Administrative Hearings (OAH) a due process hearing request (complaint) on behalf of Saugus Union School District (District) naming Student as the respondent.

On March 19, 2010, Parents on behalf of Student filed a motion to dismiss Issues One, Three, and Four of the District's complaint. Though entitled a motion to dismiss, Student's motion contends that the District's complaint fails to sufficiently plead claims which are entitled to relief and, therefore, subject to dismissal. On March 30, 2010, the District filed a response to the motion, withdrawing Issues One and Three, but opposing dismissal of Issue Four.

APPLICABLE LAW

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.<sup>1</sup> 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.<sup>2</sup>

The complaint provides enough information when it provides "an awareness and understanding of the issues forming the basis of the complaint."<sup>3</sup> The pleading requirements should be liberally construed in light of the broad remedial purposes of

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<sup>1</sup> 20 U.S.C. § 1415(b)(7)(A)(ii)(III) & (IV)

<sup>2</sup> See, H.R.Rep. No. 108-77, 1st Sess. (2003), p. 115; Sen. Rep. No. 108-185, 1st Sess. (2003), pp. 34-35.

<sup>3</sup> Sen. Rep. No. 108-185, *supra*, at p. 34.

the IDEA and the relative informality of the due process hearings it authorizes.<sup>4</sup> Whether the complaint is sufficient is a matter within the sound discretion of the ALJ.<sup>5</sup>

## DISCUSSION

District withdrew Issues One and Three. Issue Four remains as the only issue addressed by Student's motion. Issue Four contends that Parents have not provided consent to refer Student to Los Angeles County Department of Mental Health<sup>6</sup> pursuant to the March 15, 2010 IEP. District seeks an order that it may refer Student to the Department of Mental Health without the Parents' permission.

Parents contend that the District should not be allowed to refer Student to DMH without Parents' permission because the social emotional assessment of Student, upon which District relies, is flawed. Parents do not want to share inaccurate information about Student with DMH.

Parents' contention is an argument on the merits of District's Issue Four. For purposes of review, the District has satisfied the statutory requirements by providing Parents sufficient information to allow them to prepare for the hearing and participate in resolution sessions and mediation. The merit of District's contention is reserved for the hearing.

## ORDER

1. Issue Four of District's complaint is sufficient.
2. The motion to dismiss Issue Four is denied.

Dated: March 30, 2010

/s/

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CLIFFORD H WOOSLEY  
Administrative Law Judge  
Office of Administrative Hearings

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<sup>4</sup> *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.].

<sup>5</sup> 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).

<sup>6</sup> District references California Assembly Bill (AB) 3632, which entitles schoolchildren with serious emotional disturbances to mental health services.