BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

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| In the Consolidated Matters of:<br><br>PARENT(S) ON BEHALF OF STUDENT,<br><br>v.<br><br>SAN LUIS COASTAL UNIFIED SCHOOL DISTRICT , | OAH CASE NO. 2011040094 (Primary Case) |
| SAN LUIS COASTAL UNIFIED SCHOOL DISTRICT<br><br>v.<br><br>PARENT(S) ON BEHALF OF STUDENT. | OAH CASE NO. 2010120052<br><br>ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT |

On December 8, 2010 San Luis Coastal Unified School District (District) filed a Due Process Hearing Request[1] (complaint one) naming Student.

On April 1, 2011 Student filed a Due Process Hearing Request (complaint two) naming (District). The complaints were consolidated on April 8, 2011, over District's objection. District separately filed a motion for reconsideration of OAH's order granting consolidation. The motion is pending.

On April 8, 2011 District filed a Notice of Insufficiency (NOI) as to Student's complaint. District contends the complaint alleges one problem that is broadly pled over three school years from 2008-2009 to the 2010-2011 school years and appears to seek relief for a period that was resolved pursuant to a settlement agreement.

On April 8, 2011 Student filed opposition to the NOI and included a reply to District's objection to consolidation. Student's reply to the District's objection to

[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).

consolidation will not be addressed in this Order because it is moot and is not relevant to the determination of sufficiency of 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 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 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]

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[2] 20 U.S.C. § 1415(b) & (c).

[3] 20 U.S.C. § 1415(b)(7)(A)(ii)(III) & (IV).

[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.].

Whether the complaint is sufficient is a matter within the sound discretion of the Administrative Law Judge.[7]

## DISCUSSION

The sole problem in the complaint alleges that District denied Student a FAPE by failing to offer appropriate goals and objectives and failing to offer an appropriate placement in the least restrictive environment to meet Student's educational needs as a child with autism. The complaint recites a history of alleged non compliance by District from the 2008-2009 school year to and including the 2010-2011 school year. The complaint also asserts that the parties settled their dispute in which District agreed to fund Student's private placement and services for the 2009-2010 school year only. Finally, the complaint contends that the June 4 and 11, 2010 IEP offer of placement and services for the 2010-2011 school year is inappropriate and fails to provide Student a FAPE. The complaint also asserts that Student continues to be privately placed for the 2010-2011 school year at the parents' expense. Student's proposed remedies request reimbursement to parents for private school placement but does not specify for which school year.

Student's complaint is deemed sufficient for the following reasons. The facts alleged in Student's complaint meet the minimum pleading requirements set forth in the statute and are sufficient to put the District on notice of the issue forming the basis of the complaint. Student's complaint identifies the issue and adequate related facts about the problem to permit District to respond to the complaint and participate in a resolution session and mediation.

## ORDER

1. Student's 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 shall proceed as scheduled.

Dated: April 11, 2011

/s/

STELLA OWENS-MURRELL
Administrative Law Judge
Office of Administrative Hearings

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[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).