

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

ROSS VALLEY SCHOOL DISTRICT,  
MARIN COUNTY SPECIAL EDUCATION  
LOCAL PLAN AREA, AND MARIN  
COUNTY MENTAL HEALTH SERVICES.

OAH CASE NO. 2011070185

DETERMINATION OF  
INSUFFICIENCY OF STUDENT'S  
DUE PROCESS COMPLAINT

On July 5, 2011, Student's parents filed a request for due process hearing (complaint)<sup>1</sup> on her behalf. The complaint named the Ross Valley School District, (District), the Marin County Special Education Local Plan Area (SELPA), and Marin County Mental Health Services.

On July 15, 2011, the SELPA timely filed a Notice of Insufficiency (NOI) as to Student's complaint.

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>2</sup> These requirements prevent vague and confusing complaints, and promote fairness by providing the

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<sup>1</sup> 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).

<sup>2</sup> 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.<sup>3</sup>

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

## DISCUSSION

Student’s complaint alleges that she has been hospitalized a number of times since January 2011, due to suicidal ideation and suicide attempts. She alleges that toward the end of March 2011, her parents requested that the District assess her. Student contends that the District thereafter informed her parents that Student did not qualify for special education and related services. Student further contends that based upon the recommendations of her medical providers, her parents privately placed her in a residential treatment center in the state of Utah on or about June 9, 2011. Finally, Student contends that the District did find her eligible for special education and related services on or about June 17, 2011, during an individualized education program (IEP) meeting held that day, but that the District failed to offer her an appropriate residential placement after finding she required placement at one.

A thorough reading of Student’s complaint indicates that Student has not made any allegation whatsoever against the SELPA. There are no allegations concerning the SELPA in Student’s statement of facts, and no allegations concerning the SELPA in her statement of issues. All references in Student’s complaint to the assessment process, the initial determination that she was not eligible for special education, and to the subsequent IEP

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<sup>3</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>4</sup> Sen. Rep. No. 108-185, *supra*, at p. 34.

<sup>5</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>6</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).

meeting and decision that Student did meet eligibility criteria, reference only the District and no other party. The SELPA's NOI is therefore well-taken. Student's complaint is insufficient as to the SELPA.

#### ORDER

1. Student's complaint is insufficiently pled under section Title 20 United States Code 1415(c)(2)(D) as to the SELPA.

2. Student shall be permitted to file an amended complaint under Title 20 United States Code section 1415(c)(2)(E)(i)(II).<sup>7</sup>

3. The amended complaint shall comply with the requirements of Title 20 United States Code section 1415(b)(7)(A)(ii), and shall be filed not later than 14 days from the date of this order.

4. If Student fails to file a timely amended complaint, the complaint will be dismissed as to the SELPA only.

5. All dates previously set in this matter are to remain on calendar unless Student files an amended complaint.

Dated: July 18, 2011

/s/

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DARRELL LEPKOWSKY  
Administrative Law Judge  
Office of Administrative Hearings

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<sup>7</sup> The filing of an amended complaint will restart the applicable timelines for a due process hearing.