

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

MARIPOSA COUNTY UNIFIED SCHOOL  
DISTRICT.

OAH CASE NO. 2012030800

ORDER OF DETERMINATION OF  
SUFFICIENCY OF DUE PROCESS  
COMPLAINT

On March 19, 2012, Student filed a Due Process Hearing Request<sup>1</sup> (complaint) against the Mariposa County Unified School District (District) with the Office of Administrative Hearings (OAH). On April 3, 2012, the District filed a Notice of Insufficiency (NOI) as to Student's complaint.<sup>2</sup> On April 6, 2012, Student filed a response.

APPLICABLE LAW

The named parties to a due process hearing request have the right to challenge the sufficiency of the complaint.<sup>3</sup> 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.<sup>4</sup> These

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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> The District concurrently filed a motion to dismiss, which will be ruled upon in a separate order.

<sup>3</sup> 20 U.S.C. § 1415(b) & (c).

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

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>5</sup>

The complaint provides enough information when it provides “an awareness and understanding of the issues forming the basis of the complaint.”<sup>6</sup> The pleading requirements should be liberally construed in light of the broad remedial purposes of the Individuals with Disabilities Education Act and the relative informality of the due process hearings it authorizes.<sup>7</sup> Whether the complaint is sufficient is a matter within the sound discretion of the Administrative Law Judge.<sup>8</sup>

## DISCUSSION

Student’s complaint contains one issue for hearing, with several sub-issues, regarding the District’s alleged failure to timely assess him for special education eligibility. Additionally, Student alleges that after the District found Student eligible special education services, the District purported failed to provide him with appropriate goals and services. As to the child find (assessment) claims, Student’s complaint contains an adequate narrative regarding his educational struggles and needs. The complaint provides the District with adequate notice as to when and why the District should allegedly have assessed him for special education eligibility during the 2009-2010 and 2010-2011 school years. Accordingly, Student alleges sufficient facts supporting these claims to put the District on notice, and therefore this claim is sufficient.

As to Student’s claims after the District found him eligible for special education services on February 9, 2011, the complaint contains sufficient allegations that the District did not meet his behavioral and emotional needs because the Individualized Education Program (IEP) did not contain adequate goals or services. Additionally, the District did not

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<sup>5</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>6</sup> Sen. Rep. No. 108-185, *supra*, at p. 34.

<sup>7</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>8</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).

assess Student in all areas of suspected of disability in preparation of this IEP team meeting. Student also alleges that the District failed to convene a timely IEP team meeting in February 2012. The complaint does not make any allegations that the District denied him a FAPE at the March 5, 2012 IEP team meeting or that the District's IEP did not meet his unique needs, although those issues are mentioned. Accordingly, Student alleges sufficient facts supporting these claims to put the District on notice, and therefore these claims are sufficient.

Student's proposed resolution is that the District fund independent educational evaluations (IEEs), convene an IEP team meeting to discuss the results of these IEEs, and provide compensatory education. A complaint is required to include proposed resolutions to the problem, to the extent known and available to the party at the time. (20 U.S.C. §1415(b)(7)(A)(ii)(IV).) The proposed resolution stated in Student's complaint is well-defined and meets the statutorily required standard of stating a resolution to the extent known and available to Student at the time.

#### 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: April 6, 2012

/s/  
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PETER PAUL CASTILLO  
Administrative Law Judge  
Office of Administrative Hearings