

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

MORGAN HILL UNIFIED SCHOOL  
DISTRICT.

OAH Case No. 2016030498

ORDER OF DETERMINATION OF  
SUFFICIENCY OF DUE PROCESS  
COMPLAINT

On March 7, 2016, Student filed a Request for Due Process Hearing<sup>1</sup> (complaint) with the Office of Administrative Hearings naming Morgan Hill Unified School District. On March 16, 2016, Morgan Hill filed a Notice of Insufficiency 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. (20 U.S.C. § 1415(b) & (c).) 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 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. (20 U.S.C. § 1415(b)(7)(A)(ii)(III) & (IV).) 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. (See H.R.Rep. No. 108-77, 1st Sess. (2003), p. 115; Sen. Rep. No. 108-185, 1st Sess. (2003), pp. 34-35.)

The complaint provides enough information when it provides "an awareness and understanding of the issues forming the basis of the complaint." (Sen. Rep. No. 108-185, *supra*, at p. 34.) The pleading requirements should be liberally construed in light of 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 U.S.C. section 1415(b)(7)(A).

broad remedial purposes of the IDEA and the relative informality of the due process hearings it authorizes. (*Alexandra R. ex rel. Burke v. Brookline School Dist.* (D.N.H., Sept. 10, 2009, CIV. 06-CV-0215-JL) 2009 WL 2957991[nonpub. opn.]; *Escambia County Bd. 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, 8:04CV2657T24EAJ) 2005 WL 2850076 [nonpub. opn.]; but cf. *M.S.-G v. Lenape Regional High School Dist. Bd. of Educ.* (3d Cir. 2009) 306 Fed.Appx. 772, 775 [nonpub. opn.].) Whether the complaint is sufficient is a matter within the sound discretion of the Administrative Law Judge. (*Assistance to States for the Educ. of Children with Disabilities & Preschool Grants for Children with Disabilities* (Aug. 14, 2006) 71 FR 46,540-46541, 46699.)

## DISCUSSION

The facts alleged in Student's complaint are sufficient to put Morgan Hill on notice of the issues forming the basis of the complaint. Student's complaint identifies the issues and adequate related facts about the problem to permit Morgan Hill to respond to the complaint and participate in a resolution session and mediation.

Morgan Hill contends that Student's complaint is insufficient in its entirety. Morgan Hill asserts that the complaint's inconsistencies and lack of clarity, specificity and organization make it impossible to discern what the issues are. To the contrary, the complaint sets forth multiple issues which are adequately described and include related facts.

Student alleges that Morgan Hill failed to abide by the terms of the May 14, 2015 Final Settlement Agreement, and this failure has denied Student a FAPE. Student provides specific facts describing how Morgan Hill has breached the settlement agreement, including that Morgan Hill failed to amend Student's IEP<sup>2</sup> and failed to provide the agreed upon placement, services and supports. Student states that Morgan Hill failed to provide parents, the IEP team and the individuals responsible for implementing Student's IEP with a written IEP document reflecting the settlement agreement's IEP amendments. Student further states that Morgan Hill failed to provide the agreement's educational services and supports immediately following the execution of the agreement, at the next IEP team meeting on September 11, 2015, and continuing to the present.

Student clearly alleges substantive and procedural violations related to the September 11, 2015 IEP team meeting and offer for the 2015-2016 school year. Student states that no special education teacher or occupational therapist was present. Student claims that the five goals proposed by Morgan Hill were inadequate to meet Student's needs and describes how

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<sup>2</sup> Morgan Hill asserts that Student's complaint is confusing because it identifies two different dates for the operative IEP that the settlement agreement effectively amended. However, a review of the complaint as a whole reveals that Student repeatedly refers to the October 13, 2014 IEP as the IEP amended by settlement agreement, and the sole reference to an October 14, 2015 IEP is likely a typographical error.

they were inadequate. Student adds that Morgan Hill did not include any behavior goals, despite this being Student's area of greatest need, and that the failure to offer any new goals also denied him a FAPE. Student claims that Morgan Hill failed to review, revise or update Student's behavior intervention plan and failed to offer individual speech language services, individual occupational therapy or a full-time one-to-one behavioral aide. Student claims that Morgan Hill failed to provide parents with a copy of the proposed IEP document and failed to respond to the Parent Addendum that parents submitted. Student claims that Morgan Hill's offer deprived Student of the settlement agreement's benefits, frustrated the intent of the settlement agreement, and placed parents in a "Catch-22" position. Student also claims that Morgan Hill should have filed for due process to implement their September 11, 2015 IEP offer without parental consent.

Student further alleges that Morgan Hill denied him a FAPE by failing to timely conduct his triennial assessment and failing to provide any occupational therapy for the first six weeks of the 2015-2016 school year. For all of the aforementioned issues, Student includes related facts which provide sufficient specificity to allow Morgan Hill to understand the nature of the issues and prepare for the proceedings in this matter.

Accordingly, Student's statement of the claims is sufficient. Although the issues are deemed sufficient, nothing precludes the Administrative Law Judge conducting the prehearing conference in this matter from further refining the issues in consultation with the parties. Furthermore, nothing in this order shall be construed to limit Student's issues nor Morgan Hill's defenses, objections or motions relating to the issues.

## 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.

DATE: March 18, 2016

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*Lisa Lunsford*  
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LISA LUNSFORD  
Administrative Law Judge  
Office of Administrative Hearings