

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

GUARDIAN ON BEHALF OF STUDENT,

v.

SADDLEBACK VALLEY UNIFIED  
SCHOOL DISTRICT, ORANGE COUNTY  
HEALTH CARE AGENCY AND  
CALIFORNIA DEPARTMENT OF  
EDUCATION.

OAH CASE NO. 2010110737

ORDER OF DETERMINATION OF  
SUFFICIENCY OF DUE PROCESS  
COMPLAINT

On November 21, 2010, Student filed a Due Process Hearing Request<sup>1</sup> (complaint) against the Saddleback Valley Unified School District (District), Orange County Health Care Agency (OCHCA)<sup>2</sup> and California Department of Education (CDE)<sup>3</sup>. On December 14, 2010, the District filed a Notice of Insufficiency (NOI) as to Student's complaint.<sup>4</sup>

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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> On December 2, 2010, OCHCA filed a corrected response to the complaint that suggested that the Office of Administrative Hearings (OAH) does not have jurisdiction over OCHCA due to the Governor's October 8, 2010 veto of county mental health funds for special education services. If OCHCA does in fact contend that OAH does not have jurisdiction, OCHCA will need to file a noticed motion that sets forth its legal and factual positions.

<sup>3</sup> On December 9, 2010, CDE filed a Motion of Dismiss, which will be addressed in a separate order.

<sup>4</sup> Because Student's complaint is sufficient, the issue whether the District filed a timely NOI is not addressed.

## APPLICABLE LAW

The named parties to a due process hearing request have the right to challenge the sufficiency of the complaint.<sup>5</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>6</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>7</sup>

The complaint provides enough information when it provides “an awareness and understanding of the issues forming the basis of the complaint.”<sup>8</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>9</sup> Whether the complaint is sufficient is a matter within the sound discretion of the Administrative Law Judge.<sup>10</sup>

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<sup>5</sup> 20 U.S.C. § 1415(b) & (c).

<sup>6</sup> 20 U.S.C. § 1415(b)(7)(A)(ii)(III) & (IV).

<sup>7</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>8</sup> Sen. Rep. No. 108-185, *supra*, at p. 34.

<sup>9</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>10</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).

## DISCUSSION

Student's complaint raises two issues for determination regarding the opposing parties' respective duties to ensure Student's placement in a residential treatment center and to provide other mental health services to meet her mental health needs, as forth in the October 12, 2010 individualized education program (IEP) addendum. The complaint alleges that the opposing parties have delayed implementing Student's IEP because of the Governor's October 8, 2010 veto of state funding to county mental health agencies to provide mental health services for special education students pursuant to Government Code sections 7570, et seq., including payment for residential placements. Student provides a sufficient factual basis regarding the IEP at issue, her need for mental health services, the District's responsibility to meet her unique needs, even if OCHCA refuses to comply with applicable special education statutes and regulations and the parties' substantive and procedural violations. Accordingly, the complaint is legally sufficient.

Student's complaint identifies the issues and adequate related facts about the problem and contains adequate proposed resolutions to permit the opposing parties to respond to the complaint and participate in a resolution session and mediation. Therefore, Student's complaint is sufficient.

## 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: December 15, 2010

/s/

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PETER PAUL CASTILLO  
Administrative Law Judge  
Office of Administrative Hearings