

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SANTA ROSA CITY SCHOOLS.

OAH CASE NO. 2014080675

ORDER DETERMINING
SUFFICIENCY OF DUE PROCESS
COMPLAINT

On August 19, 2014 Student filed a Due Process Hearing Request]¹ (complaint) naming Santa Rosa City Schools.

On August 26, 2014, Santa Rosa timely 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.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

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).

² 20 U.S.C. § 1415(b) & (c).

³ 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.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 Whether the complaint is sufficient is a matter within the sound discretion of the Administrative Law Judge.⁷

DISCUSSION

Student’s complaint alleges that Santa Rosa denied Student a FAPE since at least January 2014. Specifically, the complaint alleges that Santa Rosa failed to provide prior written notice for four placements since January 2014: Greenacres; New Directions; Santa Rosa High; and Sierra School. Student alleges Sierra School is not an appropriate placement because Student is isolated from other Students in an independent study program. Student alleges that although she provided Santa Rosa with an Assignment of Educational Rights on March 5, 2014, Santa Rosa refuses to allow Student’s educational rights designee, Student’s mother, to participate in making educational decisions. Student alleges that at the IEP meeting of May 28, 2014, Santa Rosa did not have three required district personnel present, and then refused to conduct the IEP meeting because although Student’s education rights holder was present, Student was not. The complaint also alleges the lack of a transition plan for Student. Student’s proposed resolutions include compensatory education in the form of tutoring, and transition services and counseling. The complaint states Student’s name and date of birth, and Student’s residence address. Although the complaint does not clearly identify Student’s school of attendance, it identifies her school district of residence and indicates a dispute over what school she will attend.

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.].

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).

A review of the complaint shows that Student provided ample “facts related to the problem” to provide Santa Rosa the requisite “awareness and understanding of the issues forming the basis of [Student’s] complaint.” Student alleges that she has not been offered an appropriate placement, any transition plan, or a current IEP, and that placement changes have been made without prior written notice. She also alleges that her education rights holder has been denied the ability to participate in the IEP process.

In sum, Student’s complaint identifies the issues, adequate related facts about the problems, and proposed resolutions to permit Santa Rosa to respond to the complaint and participate in a resolution session and mediation. Accordingly, the 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.

DATE: August 28, 2014

/s/

KARA HATFIELD
Administrative Law Judge
Office of Administrative Hearings