BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENTS ON BEHALF OF STUDENT, v. NOVATO UNIFIED SCHOOL DISTRICT, REED UNION SCHOOL DISTRICT, AND LARKSPUR-CORTE MADERA SCHOOL DISTRICT.	OAH Case No. 2014090047 ORDER DETERMINING COMPLAINT SUFFICIENT AS TO REED UNION SCHOOL DISTRICT

On August 27, 2014, Student filed a Due Process Hearing Request[1] (complaint) naming Novato Unified School District, Reed Union School District, and Larkspur-Corte Madera School District.

On September 9, 2014, Reed Union filed a Notice of Insufficiency as to Student's complaint, contending that Student's complaint did not give it fair notice of the issues to be adjudicated and because Student's proposed remedies are vague.[2]

APPLICABLE LAW

The named parties to a due process hearing request have the right to challenge the sufficiency of the complaint.[3] 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,

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[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] In separate previously issued orders, OAH has found Student's complaint sufficient as to Larkspur-Corte Madera School District and insufficient as to Novato Unified School District.

[3] 20 U.S.C. § 1415(b) & (c).

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.[4] 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.[5]

The complaint provides enough information when it provides "an awareness and understanding of the issues forming the basis of the complaint."[6] 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.[7] Whether the complaint is sufficient is a matter within the sound discretion of the Administrative Law Judge.[8]

DISCUSSION

The facts alleged in Student's complaint are sufficient to put Reed Union on notice of the issues forming the basis of the complaint. Student alleges that Reed Union breached its child find obligation to her when it assessed Student in spring 2013 and, based on the assessment, concluded that Student did not meet the legal criteria for eligibility for special education under the category of specific learning disability. Student contends that Reed Union's eligibility determination was faulty because it was based on improper and inadequate assessments. Student further contends that an individualized educational program proposed by Reed Union (identified as "Respondents" in Student's complaint) failed to meet Student's unique needs.

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[4] 20 U.S.C. § 1415(b)(7)(A)(ii)(III) & (IV).

[5] See, H.R.Rep. No. 108-77, 1st Sess. (2003), p. 115; Sen. Rep. No. 108-185, 1st Sess. (2003), pp. 34-35.

[6] Sen. Rep. No. 108-185, *supra*, at p. 34.

[7] *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.].

[8] 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).

Student's complaint identifies the issues and adequate related facts about the problem to permit Reed Union to respond to the complaint and participate in a resolution session and mediation. Whether Reed Union had an obligation to assess Student and offer her an IEP, and the extent of those obligations, are matters for hearing. Therefore, Student's statement of her claims is sufficient as to Reed Union.

As a proposed resolution, Student seeks a determination that Student is eligible for special education under the category of specific learning disability and requires full-time special education and instruction and related services at an appropriate pupil to teacher ratio such as that offered by the Sterne School, and reimbursement for the costs of the private assessment that Parents obtained, the costs of Student's placement at the Sterne School, and legal costs. 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 resolutions stated in Student's complaint are sufficiently defined to meet the statutorily required standard of stating a resolution to the extent known and available to her at the time.

ORDER

1. The complaint is sufficient under title 20 United States Code section 1415(b)(7)(A)(ii) as to Reed Union.

2. All mediation, prehearing conference, and hearing dates in this matter are confirmed as to Reed Union.

DATE: September 15, 2014

/s/

DARRELL LEPKOWSKY
Administrative Law Judge
Office of Administrative Hearings