BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT v. APPLE VALLEY UNIFIED SCHOOL DISTRICT AND SAN BERNARDINO COUNTY SUPERINTENDENT OF SCHOOLS.	OAH CASE NO. 2014010869 ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

On January 27, 2014 Student filed a Due Process Hearing Request[1] (complaint) naming Apple Valley Unified School District (District) and San Bernardino County Superintendent of Schools (SBCSS) as respondents. On January 28, 2014, both respondents filed a Notice of Insufficiency (NOI) as to the complaint.[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, 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

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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] District and SBCSS also filed a Motion to Dismiss, which will be addressed by a separate Order.

[3] 20 U.S.C. § 1415(b) & (c).

[4] 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.[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]

Special education due process hearing procedures extend to the parent or guardian, to the student in certain circumstances, and to "the public agency involved in any decisions regarding a pupil." (Ed. Code, § 56501, subd. (a).) A "public agency" is defined as "a school district, county office of education, special education local plan area, . . . or any other public agency under the auspices of the state or any political subdivisions of the state providing special education or related services to individuals with exceptional needs." (Ed. Code, §§ 56500 and 56028.5.)

DISCUSSION

The facts alleged in Student's complaint are sufficient to put both District and SBCSS on notice of the issues forming the basis of the complaint. Student alleges she is an eleventh grader who resides within District and has been provided services by SBCSS. Student has allegedly received unexplained injuries at school. Student alleges that her injuries and the lack of explanation concerning them constituted a denial of a free appropriate public

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[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).

education (FAPE). Student also alleges that she has been denied a FAPE because she has not been provided with required aide support; behavioral interventions; a behavior support plan; services in the areas of speech, communication and academics; and a communication device. Although the complaint fails to delineate what services SBCSS provided, both respondents are sufficiently alleged to have been public agencies involved in decisions regarding Student, who provided special education or related services to her. Thus, Student's complaint identifies the issues and adequate related facts about the problem to permit each respondent to respond to the complaint and participate in a resolution session and mediation. Therefore, Student's statement of the claims 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: January 31, 2014

/s/
JUNE R. LEHRMAN
Administrative Law Judge
Office of Administrative Hearings