

**STATE OF MAINE
SPECIAL EDUCATION DUE PROCESS HEARING**

Parents)	
)	Order Granting
)	Sufficiency Challenge
v.)	
)	
RSU 23)	

On May 29, 2012, Adult Student, an adult student (“Student”), and her parents, XXXX (“Parents”), filed a request for a due process hearing (“Hearing Request”). On June 5, 2012, the Hearing Officer received a letter from attorney Eric Herlan, counsel to RSU 23 (“District”), challenging the sufficiency of the Family’s Hearing Request, pursuant to the Maine Unified Special Education Regulation (“MUSER”) XVI.6.B, D. and 34 CFR 300.508(b).

MUSER XVI.6.B. and 34 CFR 300.508(b) requires the Hearing Request to include:

- 1) The name of the child; 2) the address of the residence of the child; 3) the name of the school the child is attending; and 4) In the case of a homeless child or youth, available contact information for the child, and the name of the school the child is attending; 5) a description of the nature of the problem of the child relating to such proposed initiation or change, including facts relating to such problem; and 6) a proposed resolution of the problem to the extent known and available to the party at the time.

A party is not entitled to a due process hearing until the party files a Hearing Request form containing notice that meets the requirements listed above. If a school district does not believe the Hearing Request form notice is sufficient, it may challenge its adequacy. MUSER XVI.6.D.(1), 34 CFR 300.508(d)(1). Within five days of receipt of the challenge, the Hearing Officer must make a determination on the face of the notice, stating whether it meets the requirements of the law, and immediately notify the parties in writing of her determination. MUSER XVI.6.D. (2), 34 CFR 300.508(d)(2).

While the pleadings standards under the IDEA are minimal, they are not non-existent. In this case, the Hearing Request sufficiently includes the Student's name, address, and school she attends. The description of the nature of the "problem" includes allegations of failure on the part of the District to provide special education and instruction to allow the Student to make academic progress and address alleged deficits in her social skills. With respect to her educational program, the Family alleges,

"[Student] began attending school in RSU 23 in 2001. For years, she received services that were inappropriate to address her academic needs. Despite obtaining knowledge of her 2008 diagnosis of Asperger's Disorder and its attendant social needs, RSU 23 has provided virtually no services to [Student] designed to address the deficits in her social functioning."

The Family provides detail regarding the complaints and concerns they shared with the District as early as 2006. The Family avers that the Student did not make academic progress until the first half of 2011, when the District began providing appropriate specialized instruction. In addition, the Family provided details on claims that since 2006, the Parents requested social skills training for the Student, but her IEP never included any such service.

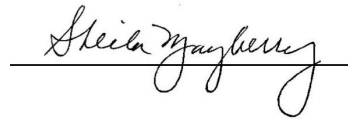
The Family's Proposed Resolution requests that the Student be provided compensatory services that encompasses a program at the Aucocisco School, which will be designed to address her alleged academic and functional deficits, beginning in the summer of 2012 and continuing through the 2012-2013 school year.

The Hearing Request form meets all the requirements set out above, except for providing facts that sufficiently notify the District of, 1) a description of the alleged academic needs that were not met, and 2) specific years in which alleged violations occurred, for which the Family is requesting compensatory education and services. The statement that, "For years, she received services that were inappropriate to address her academic needs," does not put the District on notice of what academic needs the Family believes were not met and when they were not met. Without such information, the District does not have sufficient notice to be able to respond.

Also, while the Family sufficiently described facts that allege 1) the Student lacked progress in her social thinking, 2) the Parents began requesting social skills training in 2006, and 3) the Student's IEP goals did not include progress in social thinking once she was diagnosed with Asperger's Disorder in 2008, it is unclear if the Family is alleging violations as far back as 2006. Without knowing what years the alleged violations occurred, for which the Family is seeking relief, the District is unable to properly respond.

Accordingly, I find that there is insufficient information in the Hearing Request form to proceed with a hearing. The Family may submit an amendment to their Hearing Request that addresses the above insufficiencies on or before June 13, 2012. The timelines required under the IDEA will begin to run anew upon the Due Process Office's receipt of an amended due process Hearing Request. If the Parents do not amend their Hearing Request by that date, it shall be dismissed without prejudice.

It is so ORDERED.

A handwritten signature in cursive script, reading "Sheila Mayberry", is written over a horizontal line.

Sheila Mayberry, Hearing Officer

Dated: June 7, 2012