

**STATE OF RHODE ISLAND DEPARTMENT OF EDUCATION
SPECIAL EDUCATION SPECIAL EDUCATION HEARING**

IN THE MATTER OF:	:	
	:	
A.M.	:	Complaint No. LL-20-02
	:	
v.	:	
	:	
SCITUATE SCHOOL DEPARTMENT	:	

AMENDED DECISION AND ORDER

I. Background

On January 19, 2020 the parents of A.M. (hereinafter the “Parents”) filed a due process complaint that was received by the State of Rhode Island Department of Education (hereinafter “RIDE”) on January 22, 2020. Subsequently the father of A.M. sent additional correspondence to RIDE on January 26, 2020 that referred two (2) of his children, both with the initials A.M. On February 14, 2019 RIDE received a response from the Scituate School Department (hereinafter “SSD”). Their response, *inter alia*, “respectfully requests that [RIDE] order [A.M.’s father] to present a complaint for each child that includes ‘facts related to the problem’ within five (5) business days. On March 4, 2020 the undersigned judicial hearing officer received a request from RIDE to take this case.

After initially reviewing material provided by RIDE this hearing officer recalled that he had informal discussions with the father of A.M. regarding educational concerns he had for one of his children. I do not remember any of the details of these conversations. However, the undersigned never entered into any formal attorney/client relationship with the father of A.M. I thereafter researched appropriate obligations pursuant to the Rules of Professional Conduct and spoke to State Disciplinary Counsel, who gave me an “informal opinion”. I then let both parties know about my past actions. Counsel for SSD promptly objected to my participation and the father of A.M. informed both of us that we did speak but we had spoken about another child, C.M. Thereafter I informed both parties that I would sit as the hearing officer and that unless SSD could provide new legal authority for me to consider by the end of

business Friday, March 6, 2020 I would continue to be the hearing officer for this matter. SSD never provided any further response. Therefore, I will proceed as the hearing officer in this matter.¹

II. Analysis

Contents of a due process complaint include in part: “[a] description of the nature of the problem of the child relating to the proposed or refused initiation or change, including facts relating to the problem” *See*, 34 C.F.R. and R.I. Code. R. § 300.508(b). SSD asserts that the Parents’ complaint fails to comply with the “sufficiency” requirements of a due process complaint for both children. *Id.* at § 300.508(d).²

In this matter, the Parents do not provide adequate facts for SSD to understand the nature of the allegation. Moreover, there is not an adequate nexus from the allegations and the limited facts to the proposed solution. Accordingly, this due process complaint does not meet the requirements of § 300.508(b), specifically, subsection (b)(5). This hearing officer will allow the Parents **FIVE DAYS FROM THE BELOW DATE OF THIS DECISION** to submit an amended complaint if they so choose. If so, “the timelines for the resolution meeting in § 300.510(a) and the time period to resolve in § 300.510(b) begin again with the filing of the amended complaint. If the Parents choose not to file an amended complaint within this timeframe this matter is dismissed without prejudice.

/s/Gregory A. Mancini
Gregory A. Mancini, Esq. RI Bar No. 5740
State of Rhode Island Department of Education
Independent Judicial Hearing Officer

Date: March 12, 2020

¹ The regulations require that five (5) days after receiving notice that questions the sufficiency of a complaint, the hearing officer is required to respond. In this matter, although SSD wrote their objection on February 10, 2020, this hearing officer received it March 4, 2020 and a decision is being issued on March 7, 2020.

² SDD refers to two (2) complaints but there is only one child listed on the RIDE request for a due process hearing completed by the Parents. However, A.M.’s father did refer to the child not listed on the RIDE due process complaint form to this hearing officer as the child that this complaint is the subject of. However, since my initial decision the father of A.M. informed this hearing officer that there is pending a due process complaint with his other child with another hearing officer. *Therefore, this decision only applies to the child of record for this complaint.*