BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. TORRANCE UNIFIED SCHOOL DISTRICT.	OAH CASE NO. 2013110472 ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

On February 28, 2014, Parent on behalf of Student filed an amended due process hearing request[1] (amended complaint) naming the Torrance Unified School District (District).

On March 13, 2014, District filed a timely notice of insufficiency (NOI) as to Student's amended 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 amended complaint alleges that he has been eligible for special education since 2005 under multiple eligibility categories, and that he resided in the District during the 2011-2012 and 2013-2014 school years, prior to his graduation from high school. Student alleges that District failed to provide him with a FAPE, despite increasing behaviors, lack of progress, and requests by Student's educational rights holder in 2013 for IEP team review of Student's educational program. The amended complaint alleges nine issues: whether District denied Student a FAPE by (1) failing its "child find" obligation from February 2011 through October 2013, (2) conducting an inadequate records review for Student's October 2012 triennial IEP, (3) failing to seek consent to assess Student prior to his triennial IEP, (4) failing to assess Student in all areas of suspected disability from February 2011, (5) failing to provide counseling, a mental health assessment or a one-to-one aide from February 2011, (6) failing to have a behavior support plan in place from February 2011 through June 2013, (7) failing to draft appropriate and measurable IEP goals from February 2011, (8) failing in the 2010-2012 school years to test Student's hearing or assess him for occupational therapy, and (9) failing to offer or provide Student with an appropriate transition program. Student alleges facts specific to each issue; for example, at Issue 9, that the transition plan developed by the District required Student to take a class beyond his cognitive ability. Student seeks

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[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).

assessments, compensatory education, counseling and placement in District programs as proposed remedies.

The facts alleged in Student's complaint are sufficient to put District on notice of the issues forming the basis of the complaint. Student's complaint identifies the issues, adequate related facts about the problems and proposed resolutions to permit District to respond to the complaint and participate in a resolution session and mediation.

Therefore, Student's statement of the nine 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.

DATE: March 14, 2014

/s/
ALEXA J. HOHENSEE
Administrative Law Judge
Office of Administrative Hearings