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. 2014020976 ORDER DENYING NOTICE OF INSUFFICIENCY

On February 27, 201, Student filed a Due Process Hearing Request[1] (complaint) naming Torrance Unified School District (District).

On March 13, 2014, District timely filed a Notice of Insufficiency (NOI) as to Student's 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 Individuals with Disabilities Education Act (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 complaint alleges that District denied Student a FAPE in the 2012-2013 school year and respective extended school years (ESY). Specifically, the complaint alleges that District failed to offer Student: an appropriate placement and supports; appropriate types, durations and frequencies of related services; appropriate goals; and appropriate accommodations under health nursing services. Student's complaint alleges that District denied Student a FAPE in the 2013-2014 school year and respective ESY for the same reasons alleged for the 2012-2013 school year and ESY. Student lists several proposed resolutions. The complaint states Student's name and date of birth, the Student's residence address and the name of the District elementary school Student attends.

A review of the complaint shows that Student provided ample "facts related to the problem" to provide District the requisite "awareness and understanding of the issues forming the basis of [Student's] complaint." Student alleges that placement at Calle Mayor with a population of students who primarily have autism or behavioral challenges was inappropriate to meet her unique needs in the areas of communication and language development. Student alleges a lack of appropriate designated instruction and services (the California state statutory term for what the IDEA calls related services), specifically: a lack

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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).

of a language-based intervention model; a lack of occupational therapy addressing numerous itemized areas of need; a lack of social skills services; and a lack of accommodations for necessary physical care services. Student alleges that District failed to set appropriate, measurable, and meaningful goals for Student and continually decreased the level of mastery needed to achieve each goal when Student repeatedly failed to achieve her goals. Student also specifically alleges that District failed to appropriately address Student's toileting needs by having restrooms too far away from Student's classroom and by not having an appropriate changing station in Student's classroom, and generally alleges that Student's placement was not appropriate to address her feeding and medical needs.

In sum, Student's complaint identifies the issues, adequate related facts about the problem(s), and proposed resolutions to permit District to respond to the complaint and participate in a resolution session and mediation. Accordingly, the complaint 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/

KARA HATFIELD
Administrative Law Judge
Office of Administrative Hearings