BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2017040583
v.	ORDER OF DETERMINATION OF SUFFICIENCY OF SECOND AMENDED DUE PROCESS COMPLAINT
TORRANCE UNIFIED SCHOOL DISTRICT AND LOS ANGELES COUNTY OFFICE OF EDUCATION.	

On April 11, 2017, Student filed a Due Process Hearing Request[1] (complaint) with the Office of Administrative Hearings naming Torrance Unified School District and Los Angeles County Office of Education. On April 26, 2017, District filed a Notice of Insufficiency as to Student's complaint. On May 1, 2017, OAH determined Issues 4, 5, and 8, of Student's complaint were sufficient, and Issues 1, 2, 3, 6, 7, and 9, were not sufficiently pled. On May 9, 2017, Student filed an Amended Due Process Hearing Request (amended complaint). On May 22, 2017, District filed a Notice of Insufficiency as to Issues 7 and 8 of Student's amended complaint. On May 26, 2017, OAH determined that the amended complaint's Issue 7 was sufficient but Issue 8 was not sufficiently pled. Student filed a Second Amended Due Process Hearing Request (misidentified as third amended) as of June 27, 2017 (second amended complaint). On May July 10, 2017, District timely filed a Notice of Insufficiency as to the second amended complaint's Issue 1.

APPLICABLE LAW

The named parties to a due process hearing request have the right to challenge the sufficiency of the complaint. (20 U.S.C. § 1415(b) & (c).) 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 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. (20 U.S.C. § 1415(b)(7)(A)(ii)(III) & (IV).) These 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. (See H.R.Rep. No. 108-77, 1st Sess. (2003), p. 115; Sen. Rep. No. 108-185, 1st Sess. (2003), pp. 34-35.)

The complaint provides enough information when it provides "an awareness and understanding of the issues forming the basis of the complaint." (Sen. Rep. No. 108-185, *supra*, at p. 34.) 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. (*Alexandra R. ex rel. Burke v. Brookline School Dist.* (D.N.H., Sept. 10, 2009, CIV. 06-CV-0215-JL) 2009 WL 2957991[nonpub. opn.]; *Escambia County Bd. 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, 8:04CV2657T24EAJ) 2005 WL 2850076 [nonpub. opn.]; but cf. *M.S.-G v. Lenape Regional High School Dist. Bd. of Educ.* (3d Cir. 2009) 306 Fed.Appx. 772, 775 [nonpub. opn.].) Whether the complaint is sufficient is a matter within the sound discretion of the Administrative Law Judge. (*Assistance to States for the Educ. of Children with Disabilities & Preschool Grants for Children with Disabilities* (Aug. 14, 2006) 71 FR 46,540-46541, 46699.)

DISCUSSION

Student's second amended complaint alleges eleven issues. District challenges the sufficiency of Issue (1), which alleges:

> Student clearly requires a more restrictive environment at a non- public school (NPS) with adequate staff to address her unique needs in the areas of toileting, orthopedic impairment, and behavior intervention for her safety and to access to the curriculum. District knew that Student could benefit from ABA therapy, appropriate and sufficient staff for toileting needs, and placement at an NPS, yet failed to provide these services, resulting in a denial of a FAPE for Student.

District contends that Issue (1) is inadequately pled because it alleges District failed to provide ABA services to address safety, but does not provide any facts pertaining to safety or the need for ABA to address safety issues.

The somewhat ambiguous language in Issue (1) is clarified when read in the context of the whole complaint. Elsewhere, the complaint states Parent's concerns that inadequate District toileting services were causing Student to suffer urinary tract infections and were a safety issue. In Issue (8), Student identifies the behaviors impeding Student's access to the curriculum, stating, "Student's behaviors of inattention and resistance to non-preferred tasks were clearly impeding her learning."

Therefore, Student's' complaint identifies the issues and adequate related facts about the problem to permit District to respond to the complaint and participate in resolution session and mediation. Student's statement of 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: July 11, 2017

DocuSigned by:

ROBERT G. MARTIN
Administrative Law Judge
Office of Administrative Hearings