BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. LONG BEACH UNIFIED SCHOOL DISTRICT.	OAH CASE NO. 2014011044 ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

On January 28, 2014, Parent on behalf of Student filed a due process hearing request[1] (complaint) naming the Long Beach Unified School District (District).

On February 10, 2014, District 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 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

The facts alleged in Student's complaint are sufficient to put the District on notice of the issues forming the basis of the complaint.

Student is in first grade and eligible for special education as a child with a speech or language impairment. Student's complaint alleges that his parents requested, and by a settlement agreement in 2012 District agreed to provide, a complete psychoeducational assessment of Student to determine if he had additional disabilities affecting his access to education, particularly as Student had been diagnosed with autism. Student alleges that he has not received the services and supports he needs to access his education while District has delayed in performing assessments, and has been denied a FAPE. Student requests independent psychoeducational and occupational therapy assessments as remedies.

District argues that Student's complaint is insufficient because it (i) does not make any allegations against District and (ii) fails to allege the level of services Student contends he needs.

---

[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).

Student's complaint alleges that the District is aware that Student has autism and is not making meaningful educational progress, but has denied Student a FAPE by failing to conduct the timely assessments necessary to address Student's unique needs. The law does not require Student to itemize each service that he requires in order to receive a FAPE, only to provide an awareness and understanding of the issues forming the basis of the complaint. Here, it is enough that Student alleges an unidentified disability and lack of progress, and requests relief in the form of assessment and advice from independent educational professionals on the extent of Student's educational needs. Student's complaint identifies the issues and adequate related facts about the problem to permit District to respond to the complaint and participate in a resolution session and mediation.

Therefore, Student's statement of his single claim 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: February 13, 2014

ALEXA J. HOHENSEE
Administrative Law Judge
Office of Administrative Hearings