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. 2016030918 ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

On March 15, 2016, Parent on behalf of Student (collectively, Student) filed a Due Process Hearing Request[1] (complaint) with the Office of Administrative Hearings, naming Torrance Unified School District. On March 30, 2016, Torrance Unified School District filed a Notice of Insufficiency 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. (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,

[1] A request for a due process hearing under Education Code section 56502 is the due process complaint notice required under title 20 U.S.C. section 1415(b)(7)(A).

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

District's Notice of Insufficiency is directed at Allegations F and H of the complaint. Allegation F concerns alleged deficiencies in the District's June 17, 2015, psychoeducational assessment, including that the District did not reconcile internal inconsistencies in the results on the Behavior Assessment System for Children. District contends that the alleged inconsistencies should be specified. Allegation H is based on District's denial of Guardian's multiple requests for a residential treatment center placement at every IEP since October 2, 2014. The complaint alleges that there was clear evidence that Student required such a placement at all times since October 2, 2014, but, regardless of whether an RTC placement was appropriate as of October 2, 2014, all of the circumstances known to District reflected that an RTC placement was appropriate as of the time of the March 27, 2015 IEP and thereafter. District contends that the complaint is insufficient because it should specify only one period of time, and not allege alternative dates.

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 has adequately pled the alleged defects in District's analysis of the Behavior Assessment System for Children, and there is no ambiguity or inconsistency in Student's allegations regarding the appropriateness of Guardian's placement requests. 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 Allegations F and H are 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: April 4, 2016

DocuSigned by:
Elsa H. Jones
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ELSA H. JONES
Administrative Law Judge
Office of Administrative Hearings