BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENTS ON BEHALF OF STUDENT, v. ORANGE UNIFIED SCHOOL DISTRICT,	OAH CASE NO. 2013070235
ORANGE UNIFIED SCHOOL DISTRICT, v. PARENTS ON BEHALF OF STUDENT.	OAH CASE NO. 2013070095 ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

On June 28, 2013, the Orange Unified School District (District), through counsel, filed with the Office of Administrative Hearings (OAH) a Due Process Complaint[1] (District Complaint) that named Student. OAH assigned Case Number 2013070095 to the District Complaint.

On July 2, 2013, Student, through counsel, filed with OAH a Due Process Complaint (Student Complaint) that named the District. OAH assigned Case Number 2013070235 to the Student Complaint.

On July 12, 2013, OAH granted the parties stipulation to consolidate the District and Student Complaints.

On, July 15, 2013, the District filed a Notice of Insufficiency (NOI) as to the Student Complaint.

[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).

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 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]

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[2] 20 U.S.C. § 1415(b) & (c).

[3] 20 U.S.C. § 1415(b)(7)(A)(ii)(III) & (IV).

[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).

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 alleges that, beginning in August 2011, he was denied a FAPE because his special education teacher failed to provide him academic instruction and failed to work on Student's IEP goals and objectives.

Student next alleges that he was denied educational rights because his special education teacher provided fabricated information regarding his present levels of performance during a February 15, 2012 IEP meeting. Student further alleges that this same teacher abused him emotionally and physically while in the classroom.

Student asserts that the foregoing claims caused Student to manifest maladaptive and assaultive behaviors which the District had a duty to assess. Student complains that the District denied him a FAPE by failing to assess him in this area of suspected deficit.

Finally, Student alleges that the District denied him a FAPE by failing to offer him a restrictive educational placement at a non-public school, pursuant to IEP's dated February 1, March 20 and May 2, 2013.

Student requests relief in the form of compensatory education, non-public school placement and an independent functional analysis assessment.

Consequently, Student's complaint identifies issues and adequate related facts about the problem to permit the District to respond to the complaint and participate in a resolution session and mediation.

Therefore, Student's statement of the foregoing 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.

Dated: July 16, 2013

/s/

PAUL H. KAMOROFF
Administrative Law Judge
Office of Administrative Hearings