

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SANTA ROSA CITY SCHOOLS.

OAH CASE NO. 2014100519

ORDER OF DETERMINATION OF
SUFFICIENCY OF STUDENT'S
AMENDED DUE PROCESS
COMPLAINT

On October 10, 2014 Student's Educational Rights Holder, her mother, filed a Due Process Hearing Request¹ (complaint) on Student's behalf naming Santa Rosa City Schools. On October 10, 2014, Santa Rosa timely filed a notice of insufficiency (NOI) as to the complaint. On October 22, 2014, OAH issued an order that partially granted Santa Rosa's NOI, finding six issues sufficiently stated in the complaint, but finding two additional issues, identified in the complaint as problems 6 and 7, to be insufficiently stated. The order gave Student until November 5, 2014 to file an amended complaint.

Student timely filed an amended complaint on November 4, 2014. District timely filed an NOI to Student's amended complaint on November 5, 2014, contending that Student's complaint was insufficient because it lacked sufficient clarity as to the time period at issue and the specific facts associated with the alleged problems to put District on notice of the facts to be resolved at hearing. For reasons set forth below, Student's problems 6 and 7 as stated in the amended complaint are sufficient and, as restated for clarity below, are added as issues 7 and 8 to the six issues identified in OAH's October 22, 2014 order.

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).

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).

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

DISCUSSION

The facts alleged in Student’s amended complaint are sufficient to put Santa Rosa on notice of the issues forming the basis of problems 6 and 7 in the amended complaint. As problem 6, Student contends that Student had one to three seizures daily at ACE High School in her second year, the 2011-2012 school year. Student contends that, when she had a seizure, the school provided no medical attention, but would place her in a “social room” with a blanket and pillow. Student missed class as a result, and even after a seizure subsided, Student was unable to understand and benefit from academic instruction. As problem 7, Student contends that the school failed to address problems with inappropriate physical

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).

attention by a teacher, and bullying and inappropriate treatment by others at school that caused Student to cry daily in the 2011-2012 school year. Student contends that one teacher hugged her frequently enough that other students noticed the special attention the teacher was giving to Student. Two students identified in the amended complaint allegedly regularly bullied Student. The bullying included hitting Student in the head with a coffee cup, calling her names such as “stupid” and “weird,” and repeatedly throwing her backpack to the floor. As a result of the bullying, Student would lock herself into a bathroom and cry, missing class as a result.

Student’s problems 6 and 7 may be restated for purposes of clarity as the following issues 7 and 8 to be added to the six issues previously identified in OAH’s October 22, 2014 order:

Did Santa Rosa deny Student a free appropriate public education from February 2012 through October 10, 2014⁸, by:

. . . .

7) Failing to identify and properly respond to Student’s seizures as a disability potentially requiring special education, which prevented Student from accessing her curriculum?

8) Failing to properly respond to bullying and inappropriate treatment by others at school, which caused Student to suffer emotionally to the extent that she could not access her curriculum?

Student’s complaint identifies the issues and provides enough related facts about problems 6 and 7 to allow Santa Rosa to respond to the complaint and participate in a resolution session and mediation. Therefore, Student’s statement of her claims is sufficient.

⁸ This Order does not address any potential statute of limitations defense Santa Rosa may have to some or all of the claims alleged.

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: November 10, 2014

/s/

ROBERT MARTIN
Administrative Law Judge
Office of Administrative Hearings