

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

ABC UNIFIED SCHOOL DISTRICT AND
PASADENA UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2015010208

ORDER OF DETERMINATION OF
SUFFICIENCY OF DUE PROCESS
COMPLAINT

On January 6, 2015, Student filed a due process hearing request¹ (complaint) naming ABC Unified School District and Pasadena Unified School District.

On January 12, 2015, ABC 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.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

Student’s complaint alleges that he resided in a group home in Pasadena prior to a traumatic brain injury that placed him in a hospital in ABC’s boundaries for several years. In an individualized education program addendum dated November 7, 2014, ABC offered Student placement in a residential treatment center, but refused to fund that placement because once Student leaves the hospital, he will no longer be a resident of ABC. Pasadena similarly refused to fund the placement. Student’s complaint alleges three claims: (1 and 2) that ABC denied Student a FAPE by refusing to provide a residential program⁸, and (3) ABC denied Student a FAPE by not giving prior written notice of why it was refusing to fund the residential placement. Throughout the complaint, Student alleges that if ABC is not responsible for funding, then Pasadena is responsible.

ABC argues in its notice of insufficiency that the premise of Student’s complaint is legally incorrect, and that it has no responsibility to Student after Student’s discharge from the hospital, and that the complaint should therefore be dismissed. However, whether ABC

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).

⁸ The first two issues are identically worded and are supported by essentially the same factual allegations.

is the school district responsible for funding Student's placement at a residential treatment center is a legal determination to be made at hearing.

The facts alleged in Student's complaint are sufficient to put ABC on notice of the issues forming the basis of the complaint. Student's complaint identifies the issues and adequate related facts about the problem to permit ABC to respond to the complaint and participate in a resolution session and mediation.

Therefore, Student's statement of the three 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: January 13, 2015

/s/
ALEXA J. HOHENSEE
Administrative Law Judge
Office of Administrative Hearings