

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

ROWLAND UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2015010348

ORDER FINDING STUDENT'S
COMPLAINT SUFFICIENT

On January 12, 2015 Student filed a due process hearing request¹ (complaint) naming Rowland Unified School District. On January 15, 2015, District filed a notice of insufficiency as to Student's complaint and remedies sought.²

APPLICABLE LAW

The named parties to a due process hearing request have the right to challenge the sufficiency of the complaint.³ 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.⁴ 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 District concurrently filed a motion to dismiss, which shall be addressed in a separate motion. In the future, it is requested of District to file these motions separately.

³ 20 U.S.C. § 1415(b) & (c).

⁴ 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.⁵

The complaint provides enough information when it provides “an awareness and understanding of the issues forming the basis of the complaint.”⁶ 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.⁷ Whether the complaint is sufficient is a matter within the sound discretion of the administrative law judge.⁸

DISCUSSION

Student’s complaint alleges claims that (1) that Parents were deprived of an opportunity to participate in an upcoming IEP because the District failed to provide Parents with educational records requested, and (2) District failed to implement Student’s individualized education program and denied Student a FAPE because: (a) Student’s auto mechanics teacher bullied Student and repeatedly sent Student out of the room so that Student missed educational time, (b) no note-taker was provided, (c) no Bookshare application was provided and (d) neither speech and language nor behavior intervention services were provided. As remedies, Student’s complaint seeks compensatory services and an order that District personnel receive training in the law concerning bullying.

As to Issue 1, Student’s complaint alleges sufficient facts to put District on notice of alleged procedural violation of failing to produce requested documents, which did not permit Parent to adequately participate in the IEP process.

The facts alleged in Student’s Issue 2, and its subparts, are sufficient to put District on notice of the issues forming the basis of the complaint. Student alleges that the actions of a

⁵ See, H.R.Rep. No. 108-77, 1st Sess. (2003), p. 115; Sen. Rep. No. 108-185, 1st Sess. (2003), pp. 34-35.

⁶ Sen. Rep. No. 108-185, *supra*, at p. 34.

⁷ *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.].

⁸ 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).

specific identified teacher led to Student missing a significant portion of that class, and that specific accommodations and services required by Student's IEP were not provided. The complaint does not allege the date of the IEP at issue, but the jurisdiction of OAH is limited to two years. (Ed. Code, § 56505, subd. (l); see also 20 U.S.C. § 1415(f)(3)(C)). Student seeks a remedy of compensatory education, which sufficiently alleges a resolution of the problem to the extent known and available to Student at this time. If a denial of a FAPE is established at hearing, an award of appropriate relief will be determined by the ALJ hearing based upon the evidence offered. Student's Issue 2 identifies the issues and adequate related facts about the problem, and the remedies proposed, to permit District to respond to the complaint and participate in a resolution session and mediation.

Therefore, Student's complaint, and its subparts and proposed remedies, are sufficient.

ORDER

1. Student's complaint, its subparts and proposed remedies, are 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 20, 2015

/s/

ALEXA J. HOHENSEE
Administrative Law Judge
Office of Administrative Hearings