

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

RIVERSIDE UNIFIED SCHOOL  
DISTRICT.

OAH Case No. 2015060296

ORDER FINDING STUDENT'S DUE  
PROCESS COMPLAINT SUFFICIENT

On May 21, 2015 Student filed a Due Process Hearing Request<sup>1</sup> (complaint) naming Riverside Unified School District.

On June 5, 2015, District filed a Notice of Insufficiency (NOI) as to Student's complaint, contending that Student's complaint did provide sufficient supporting facts for District to understand the bases for Student's claims.

APPLICABLE LAW

The named parties to a due process hearing request have the right to challenge the sufficiency of the complaint.<sup>2</sup> 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.<sup>3</sup> These

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<sup>1</sup> 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).

<sup>2</sup> 20 U.S.C. § 1415(b) & (c).

<sup>3</sup> 20 U.S.C. § 1415(b)(7)(A)(ii)(III) & (IV).

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.<sup>4</sup>

The complaint provides enough information when it provides “an awareness and understanding of the issues forming the basis of the complaint.”<sup>5</sup> 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.<sup>6</sup> Whether the complaint is sufficient is a matter within the sound discretion of the Administrative Law Judge.<sup>7</sup>

## DISCUSSION

The facts alleged in Student’s complaint are sufficient to put District on notice of the issues forming the basis of the complaint. Student alleges that District constructively denied Student transportation services agreed-upon in her individualized education program by creating an unsafe and hostile environment on the bus that Student rides, by allowing the bus driver to provoke and yell at student, in one or more incidents including an incident on May 18, 2015. As a proposed resolution, Student seeks an order allowing Student’s mother to view a video of the May 18, 2015 incident that is allegedly in District’s control, and instructing District to correct the hostile environment on the bus so that Student can again ride it, and reimbursement for the cost of transportation Parent was forced to provide because of the constructive termination of Student’s transportation services.

Student also alleges that District has denied Student a free appropriate public education by offering her placement in a moderate/severe class for this summer’s extended school year, instead of a mild/moderate class that would be the appropriate least restrictive environment for Student. As a proposed resolution, Student is prospectively seeking

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<sup>4</sup> See, H.R.Rep. No. 108-77, 1st Sess. (2003), p. 115; Sen. Rep. No. 108-185, 1st Sess. (2003), pp. 34-35.

<sup>5</sup> Sen. Rep. No. 108-185, *supra*, at p. 34.

<sup>6</sup> *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.].

<sup>7</sup> 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).

compensatory services for the failure to provide an appropriate extended school year placement.

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 her claims is sufficient. A determination of sufficiency does not require a determination that the claims are within the jurisdiction of the Office of Administrative Hearings, or capable of proof at hearing.

#### 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: June 10, 2015

/s/

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ROBERT MARTIN  
Administrative Law Judge  
Office of Administrative Hearings