

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

TORRANCE UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2015090527

ORDER DETERMINING COMPLAINT
SUFFICIENT

On September 04, 2015, Parent on Behalf of Student filed a Request for Due Process Hearing¹ (complaint) naming Torrance Unified School District (District). On September 18, 2015, District filed a Notice of Insufficiency as to Student's complaint.

APPLICABLE LAW

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.² 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.³

The complaint provides enough information when it provides "an awareness and understanding of the issues forming the basis of the complaint."⁴ The pleading

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)(7)(A)(ii)(III) & (IV).

³ See, H.R.Rep. No. 108-77, 1st Sess. (2003), p. 115; Sen. Rep. No. 108-185, 1st Sess. (2003), pp. 34-35.

⁴ Sen. Rep. No. 108-185, *supra*, at p. 34.

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.⁵ Whether the complaint is sufficient is a matter within the sound discretion of the Administrative Law Judge.⁶

DISCUSSION

The 23 page complaint states four issues in detail. The first issue alleges District failed to adequately assess Student in the area of occupational therapy, and conduct a functional behavior analysis, and an assistive technology assessment. The second issue alleges District denied Student a FAPE by failing to provide Student a free appropriate public education for the 2013-2014 and 2014-2015 school years and failing to offer a FAPE for the 2015-2016 school year; in particular an appropriate placement, and sufficient occupational therapy, language and speech therapy, behavior intervention and assistive technology/augmentative and alternative communication services. Student's third issue alleges three violations of the IDEA's procedural requirements, specifically, District predetermined eligibility and placement, impeded Parent's right to participate in the IEP process and failed to make a clear offer of FAPE. Lastly, the complaint alleges District failed to provide prior written notice addressing Parent's requests for push-in occupational therapy, to change eligibility, and Student's classroom placement. Each issue contains supporting factual allegations, specifies the dates of events and identifies the relevant individualized education programs, assessments, and documents. The complaint contains 17 proposed resolutions including placement in a small highly structured classroom with supports and individualized academic instruction, a 1:1 aide, speech and language, and occupational therapy, social skills training, assistive technology, extended school year, home to school transportation, compensatory education and services, independent educational evaluations, reimbursement of educational expenses, and an order directing District to develop an appropriate IEP.

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'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, mediation and prepare for hearing.

⁵ *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.].

⁶ 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).

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: September 18, 2015

/s/

MARIAN H. TULLY
Administrative Law Judge
Office of Administrative Hearings