BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. TORRANCE UNIFIED SCHOOL DISTRICT AND LOS ANGELES COUNTY OFFICE OF EDUCATION.	OAH Case No. 2017040583 ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

On April 11, 2017, Student filed a Due Process Hearing Request[1] (complaint) with the Office of Administrative Hearings naming Torrance Unified School District and Los Angeles County Office of Education. On April 26, 2017, Torrance filed a Notice of Insufficiency as to Student's complaint. On May 1, 2017, OAH determined Issues 4, 5, and 8, of Student's complaint were sufficient, and Issues 1, 2, 3, 6, 7, and 9, were not sufficiently pled. On May 9, 2017, Student filed an Amended Due Process Hearing Request (amended complaint). On May 22, 2017, District filed a Notice of Insufficiency as to Student's amended complaint.

APPLICABLE LAW

The named parties to a due process hearing request have the right to challenge the sufficiency of the complaint. (20 U.S.C. § 1415(b) & (c).) 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 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. (20 U.S.C. § 1415(b)(7)(A)(ii)(III) & (IV).) 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

[1] A request for a due process hearing under Education Code section 56502 is the due process complaint notice required under title 20 U.S.C. section 1415(b)(7)(A).

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

The complaint provides enough information when it provides "an awareness and understanding of the issues forming the basis of the complaint." (Sen. Rep. No. 108-185, *supra*, at p. 34.) 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. (*Alexandra R. ex rel. Burke v. Brookline School Dist.* (D.N.H., Sept. 10, 2009, CIV. 06-CV-0215-JL) 2009 WL 2957991[nonpub. opn.]; *Escambia County Bd. 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, 8:04CV2657T24EAJ) 2005 WL 2850076 [nonpub. opn.]; but cf. *M.S.-G v. Lenape Regional High School Dist. Bd. of Educ.* (3d Cir. 2009) 306 Fed.Appx. 772, 775 [nonpub. opn.].) Whether the complaint is sufficient is a matter within the sound discretion of the Administrative Law Judge. (*Assistance to States for the Educ. of Children with Disabilities & Preschool Grants for Children with Disabilities* (Aug. 14, 2006) 71 FR 46,540-46541, 46699.)

DISCUSSION

Student's amended complaint alleges nine claims in the complaint. District is challenging the sufficiency of Issues 7 and 8[2]. Issue 7 is sufficient and Issue 8 is insufficient; both are discussed below.

Issue 7, which was Issue 6 in Student's original complaint, identifies which years Student claims District failed to provide her with a classroom environment that would fit her needs. Student claims the classroom was inappropriate due to the size of the classroom, the physical amenities, and equipment provided. Issue 7 is sufficiently pled to put District on notice as to the basis of Student's claims.

With regard to Issue 8, which was Issue 7 in Student's original complaint, the claim and corresponding information is identical to the claim pled in the original complaint. Student has still failed to identify which IEP's failed to include the technology Student allegedly required, or what the additional equipment might be. Without these details the claim insufficient.

ORDER

1. Issue 7 of Student's complaint is sufficient under title 20 U.S.C. section 1415(b)(7)(A)(ii).

[2] Only Issues 7 and 8 are addressed in this order as District did not challenge any other Issues in Student's amended complaint.

2. Issue 8 of Student's complaint is insufficiently pled under title 20 United States Code section 1415(c)(2)(D).

3. Student shall be permitted to file a second amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II).[3]

4. The second amended complaint shall comply with the requirements of title 20 U.S.C. section 1415(b)(7)(A)(ii), and shall be filed not later than 14 days from the date of this order.

5. If Student fails to file a timely amended complaint, the hearing shall proceed only on Issues 1, 2, 3, 4, 5, 6, 7, and 9 in Student's amended complaint.

DATE: May 26, 2017

DocuSigned by:
Linda Johnson
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LINDA JOHNSON
Administrative Law Judge
Office of Administrative Hearings

[3] The filing of an amended complaint will restart the applicable timelines for a due process hearing.