BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. TEMPLE CITY UNIFIED SCHOOL DISTRICT.	OAH Case No. 2016090010 ORDER DENYING DISTRICT'S NOTICE OF INSUFFICIENTY OF STUDENT'S COMPLAINT

On August 26, 2016, Student filed a due process hearing request[1](complaint), naming Temple City Unified School District. On September 7, 2016, District filed a Notice of Insufficiency 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 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 the following facts: On February 3, 2014, Parents requested that District assess Student because they believed that Student had autism. District was allegedly aware that Student was easily distracted, did not speak, or play, in class, and was diagnosed with selective mutism. District held a Student Success Team meeting on February 26, 2014. District's meeting notes indicated that Student had difficulty with peer relationships and math and language academic challenges. District did not assess Student after the February 26, 2014 meeting. Parents requested that District assess Student again in 2015 after a parent funded private neuropsychological evaluator diagnosed Student with moderate attentions deficit hyperactivity disorder, with selective mutism in remission. On September 10, 2015, District held a Student Success Team meeting. District's meeting notes indicated that Student required repeated instructions and constant prompting to complete work, and was unable to work independently. District did not assess Student after the September 10, 2015 meeting.

On October 16, 2015, Parents requested, in writing, that District assess Student. On October 30, 2015, District held a Student Success Team meeting. District's meeting notes

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[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).

indicated that Student got an "F" in writing because he did not turn in assignments, that Student took all day to complete reading comprehension tests, and feared initiating social contact. District did not assess Student after the October 30, 2015 meeting.

The issues identified in the complaint were: Whether District denied Student a free appropriate public education: (i) for the 2015-2016 school year; (ii) by failing to comply with its child find obligation during the 2014-2015, and 2015-2016 school years; and (iii) by significantly impeding Parents' opportunity to participate in the decision making process during the 2015-2016 school year.

As a remedy, Student requests psychological counseling, a trained one-to-one behavioral aide, and compensatory academic tutoring, speech and language, occupational therapy, and behavior intervention services. Student further requests reimbursements for tutoring expenses and independent evaluations, and an order that District's staff receive training in special education procedures e.g. to meet its child find, prior written notice, and procedural safeguards obligations.

The facts alleged in Student's complaint are sufficient to put District on notice of the issues stated above, and provided adequate related facts about the problem to permit District to respond to the complaint and participate in a resolution session and mediation.

District's alleged confusion as to which school year Student contends District failed to assess is unsupported based on the information available in the complaint. Student properly alleged his issues and requested specific remedies. Therefore, District's notice of insufficiency is denied.

ORDER

1. The complaint is deemed sufficient under title 20 United States Code section 1415(c)(2)(C) and Education Code section 56502, subdivision (d)(1).

2. All mediation, prehearing conference, and hearing dates in this matter are confirmed.

DATE: September 9, 2016

DocuSigned by:
Sabrina Kong
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SABRINA KONG
Administrative Law Judge
Office of Administrative Hearings