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. 2014110103 ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

On October 28, 2014 Parent on behalf of Student filed with the Office of Administrative Hearings a Due Process Hearing Request[1] (complaint) naming the Torrance Unified School District as respondent.

On November 6, 2014, Torrance filed a Notice of Insufficiency as 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 (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.[3] These

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[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).

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.[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 a single issue: whether Torrance failed to offer Student a free appropriate public education for school years 2014-2015 and 2015-2016 and extended school year 2015 by failing to provide specialized instruction for mathematics and social studies. Student avers that Torrance proposed changes to Student's Individualized Education Program at the October 14, 2014 IEP team meeting which would move Student from Algebra I TO Math 8, and substitute specialized academic instruction for a study skills class. By placing Student in a study skills class, Student would be required to change classes seven weeks into the school year, which would adversely affect him.

In his complaint, Student requests as a proposed resolution Student requests that OAH order Torrance to provide one-to-one tutoring by a non-public agency in mathematics and social studies, plus to conduct an Assistive Technology assessment to determine whether hardware and/or software could enable Student to access the curriculum in both mathematics and social studies.

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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).

In its NOI, Torrance contends that the complaint is insufficient because Student has failed to provide facts to indicate that an assistive technology assessment is warranted.

The facts alleged in Student's complaint are clearly sufficient to put the District on notice of the issue forming the basis of the complaint. Student's complaint identifies the issues and adequate related facts about the problem to permit Torrance to respond to the complaint and participate in a resolution session and mediation. Additionally, Student adequately explains the reason for proposing as a resolution the reason he is requesting an assistive technology assessment.

Therefore, Student's complaint is sufficient.

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: November 7, 2014

/s/

ROBERT HELFAND
Administrative Law Judge
Office of Administrative Hearings