BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. LOS ANGELES UNIFIED SCHOOL DISTRICT.	OAH CASE NO. 2013101099 ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

On October 28, 2013, Parent on behalf of Student filed a due process hearing request[1] (complaint) naming the Los Angeles Unified School District (District). On November 21, 2013, Student filed an amended complaint which added a sixth claim to the complaint. On December 5, 2013, Student's amended complaint was deemed filed pursuant to an order granting leave to amend.

On December 17, 2013, the District timely filed a notice of insufficiency (NOI) as to Issue 6 of 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.[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 original complaint alleged that the District denied Student a FAPE by (1) failing to provide him with an appropriate behavior support plan to minimize Student's aggressive behaviors, (2) failing to provide Parent with prior written notice of the reasons for denying parental requests for service, (3) failing to allow Student to return to school when ordered by OAH to do so, (4) including noncredible and incompetent District staff members on Student's October 25, 2013 individualized education program (IEP) team, and (5) predetermining placement and services prior to the October 25, 2013 IEP team meeting. Student's amended complaint adds a claim that Student was denied a FAPE because the District (6) failed to provide a behavior intervention implementation (BII) aide for Student on the school bus during transportation. The District's NOI contends that the District cannot determine from the facts alleged at Issue 6 what issue is being raised against it, nor prepare a defense to that claim.

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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).

The facts alleged in Student's amended complaint are sufficient to put the District on notice of the issues forming the basis of the complaint. Although Issue 6 is alleged in a conclusory fashion ("My son is being denied a FAPE when the District refused to provide him with a BII on the bus"), when read in conjunction with facts alleged throughout the amended complaint, it sufficiently states that Student requires a behavior aide to assist him with his aggressive behaviors during transportation on the bus. This information identifies the issues and adequate related facts about the problem to permit the District to respond to the complaint and participate in a resolution session and mediation.

Therefore, Student's statement of Issue 6 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.

Dated: December 18, 2013

/s/

ALEXA J. HOHENSEE
Administrative Law Judge
Office of Administrative Hearings