

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT on behalf of STUDENT,

v.

SAN FRANCISCO UNIFIED SCHOOL  
DISTRICT.

OAH CASE NO. 2009061351

DETERMINATION OF SUFFICIENCY  
OF DUE PROCESS COMPLAINT

On June 25, 2009, Student filed with the Office of Administrative Hearings (OAH) a Due Process Hearing Request<sup>1</sup> (complaint) naming San Francisco Unified School District (District). On July 10, 2009 District filed a Response and Notice of Insufficiency (NOI) as to Student's Issues 1, 2, 3, 5, and 6 in the 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. (§ 1415(b)(7)(A)(ii)(III) & (IV);<sup>2</sup> Ed. Code, § 56502, subd. (c)(1).)

The complaint is deemed sufficient unless the party against whom the complaint has been filed notifies the Office of Administrative Hearings (OAH) and the other party, in writing, within 15 days of receiving the complaint, that the complaint has not met the notice requirements. (§ 1415(c)(2)(C); Ed. Code, § 56502, subd. (d)(1).) Section 1415(c)(2)(D) requires that the sufficiency of the complaint be evaluated based on the face of the complaint.

The party against whom the complaint has been filed is entitled to know the nature of the specific allegations being made against it, such that the party may be able to prepare a

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<sup>1</sup> 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).

<sup>2</sup> All statutory citations are to Title 20 United States Code unless otherwise noted.

defense. (*Tadano v. Manney* (9th Cir. 1947) 160 F.2d 665, 667; *Hornsby v. Allen* (5th Cir. 1964) 326 F.2d 605, 608.)

## DISCUSSION

Student's complaint alleges six claims, as follows: (1) District denied Student a FAPE from June 2007 until the present time due to the fact that he was "wrongfully diagnosed with autism"; (2) District denied Student a FAPE from June 2007 through ESY 2008 academic year because Student's speech pathologist "spoke with a significant Chinese accent" making it difficult to understand and model; (3) District denied Student a FAPE from March 12, 2008 until the present time because the District did not make an adequate offer of speech and language services; (4) District denied Student a FAPE because the District offered speech and language services in the April 8, 2008 individualized educational program at a different school location without transportation; (5) Student is entitled to compensatory educational services because of the FAPE denial from June 2007 until the present; (6) Student asserts that he is entitled to reimbursement for privately obtained speech services from August 2007 to October 2008.

The facts alleged in Student's complaint are sufficient to put the District on notice of the issues forming the basis of the complaint. The arguments raised in the District's NOI are factual disputes to be raised at hearing, and not in a NOI, which just looks at the face of the complaint to determine its sufficiency.

Student's complaint identifies six issues. The facts and dates sufficiently document the dispute, so as to permit District to adequately respond to the complaint and attempt to participate in a resolution session and mediation.

Therefore, Student's statement of the claims is sufficient.

## ORDER

1. The complaint is deemed sufficient under section 1415(b)(7)(A)(ii).
2. All mediation, prehearing conference, and hearing dates in this matter (as issued by Presiding Judge Clark in the July 13, 2009 order) shall remain on calendar.

Dated: July 16, 2009

/s/

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TRINA A. HIRSIG  
Administrative Law Judge  
Office of Administrative Hearings

