

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. 2009110322

DETERMINATION OF SUFFICIENCY  
OF DUE PROCESS COMPLAINT

On November 9, 2009, Student filed a Due Process Hearing Request<sup>1</sup> (complaint) naming Torrance Unified School District as the respondent. On November 23, 2009, District filed a timely Notice of Insufficiency (NOI). As discussed below, the complaint is sufficient.

APPLICABLE LAW

The respondent to a due process hearing request has the right to challenge the sufficiency of the complaint. (20 U.S.C. § 1415(b) & (c).)<sup>2</sup> The party filing the complaint is not entitled to a hearing unless the complaint meets the requirements of 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. (§ 1415(b)(7)(A)(ii)(III) & (IV).) The determination of whether a complaint is sufficient is made by looking at the face of the complaint. (§ 1415(c)(2)(D).) In general, fundamental principles of due process entitle the respondent to know the nature of the allegations being made against it, such that respondent may prepare a defense. (*Tadano v. Manney* (9th Cir. 1947) 160 F.2d 665, 667; *Hornsby v. Allen* (5th Cir. 1964) 326 F.2d 605, 608.)

---

<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.

## DISCUSSION

The facts alleged in the complaint are sufficient to put District on notice of the issues forming the basis of the complaint, such that District can respond to the complaint and participate in a resolution session. The complaint alleges that District offered Student the following specific services in Student's May 12, 2009 IEP: (1) ninety minutes per month of counseling, to be provided while Student was enrolled at Calle Mayor Middle School and continuing when he transitioned to South High School; (2) a referral to County Mental Health pursuant to AB 3632; and (3) a study skills class to be provided at South High School. District did not provide the promised services, either at Calle Mayor Middle School or after the transition to South High School, which was Student's last District school of attendance. At the end of October 2009, Student's parents placed him at Agape Boarding School in Missouri. The complaint requests the following remedies: (1) funding at an appropriate nonpublic school; (2) completion of the AB 3632 referral; and (3) reimbursement.

The above facts taken from the complaint are sufficient to give District notice of the nature of the problem relating to the provision of a free appropriate public education (FAPE). As to the proposed resolutions, they are specific and easily understood. Thus, the complaint is deemed sufficient pursuant to section 1415(b)(7)(A)(ii) and Education Code section 56502, subdivision (c).

## ORDER

1. The complaint is deemed sufficient pursuant to section 1415(b)(7)(A)(ii) and Education Code section 56502, subdivision (c).
2. All mediation, prehearing conference, and hearing dates in this matter shall remain on calendar.

IT IS SO ORDERED.

Dated: November 25, 2009

/s/

---

JUNE R LEHRMAN  
Administrative Law Judge  
Office of Administrative Hearings