

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

OAH CASE NO. 2010040070

v.

TORRANCE UNIFIED SCHOOL DISTRICT,

---

TORRANCE UNIFIED SCHOOL DISTRICT,

OAH CASE NO. 2010030301

v.

PARENT ON BEHALF OF STUDENT.

ORDER OF DETERMINATION OF  
SUFFICIENCY OF DUE PROCESS  
COMPLAINT

On or about April 5, 2010, Student filed his Due Process Hearing Request<sup>1</sup> (Complaint) with the Office of Administrative Hearings (OAH), naming Torrance Unified School District (District) as a respondent. Among other issues, it alleged that Student had had past problems relating to daily living skills, and that the District failed to offer appropriate occupational therapy (OT). District timely filed a Notice of Insufficiency in response to Student's Complaint. By Order dated April 19, 2010, OAH granted the NOI regarding the allegations in the Complaint pertaining to OT, on the grounds that Student alleged no facts specific to the applicable time period to support his claim. Student was granted to leave to amend by no later than 14 days from the date of the Order.

On April 30, 2010, Student timely filed an Amended Due Process Hearing Request (Amended Complaint) against the District.

On May 13, 2010, District filed a Notice of Insufficiency (NOI) as to Student's Amended Complaint.

---

<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).

## APPLICABLE LAW

The named parties to a due process hearing request have the right to challenge the sufficiency of the complaint.<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.<sup>3</sup> These 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.<sup>4</sup>

The complaint provides enough information when it provides “an awareness and understanding of the issues forming the basis of the complaint.”<sup>5</sup> 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.<sup>6</sup> Whether the complaint is sufficient is a matter within the sound discretion of the ALJ.<sup>7</sup>

## DISCUSSION

The facts alleged in Student’s Amended Complaint are sufficient to put the District on notice of the occupational therapy (OT) issues forming the basis of Issue 3 of the Amended Complaint. Student alleges that the OT and psychoeducational assessments of Student, both performed by the District in 2009, revealed a variety of deficits related to OT. Student specifies these deficits and Student’s unique OT needs in the Amended Complaint, and alleges that the District has offered only one OT goal, and has not offered the OT services Student requires. As a resolution of this alleged denial of a free appropriate public education (FAPE), Student suggests that he receive OT from a Non-Public Agency (NPA) of Parent’s choice.

---

<sup>2</sup> 20 U.S.C. § 1415(b) & (c).

<sup>3</sup> 20 U.S.C. § 1415(b)(7)(A)(ii)(III) & (IV)

<sup>4</sup> See, H.R.Rep. No. 108-77, 1st Sess. (2003), p. 115; Sen. Rep. No. 108-185, 1st Sess. (2003), pp. 34-35.

<sup>5</sup> Sen. Rep. No. 108-185, *supra*, at p. 34.

<sup>6</sup> *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.].

<sup>7</sup> 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 proposed resolution does not request that the District formulate additional OT goals. The District asserts that this omission renders the Student's Amended Complaint insufficient as to Issue 3.

Student's Amended Complaint sufficiently identifies the issues and adequate related facts about the problem so as to permit District to respond to the Amended Complaint and to participate in a resolution session and mediation.

The proposed resolution regarding OT is stated in Student's Amended Complaint and is well-defined. Student has met the statutory standard of stating a resolution to the extent known and available to him at the time.

Therefore, Student's statement of his claim regarding OT services is sufficient.

#### ORDER

1. The complaint is sufficient under section 1415(b)(7)(A)(ii).
2. All mediation, prehearing conference, and hearing dates in this matter are confirmed.

Dated: May 20, 2010

/s/

---

ELSA H. JONES  
Administrative Law Judge  
Office of Administrative Hearings