

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. 2011030302

ORDER DENYING NOTICE OF
INSUFFICIENCY OF COMPLAINT

On March 02, 2011 Student filed a Due Process Hearing Request¹ (complaint) naming District. On March 17, 2011, District timely filed a Notice of Insufficiency (NOI) 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 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

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).

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

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

Here, Student’s twenty-seven page complaint alleges that District denied Student FAPE from March 2, 2009 until August, 2010 by failing to: 1) provide Student’s parents meaningful participation in Student’s individualized education plan (IEP) because District did not make requisite efforts to locate Student’s parents before appointing a surrogate parent for purposes of Student’s June 2009 IEP; 2) monitor District’s appointed surrogate parent to insure that the surrogate meaningfully participated in Student’s IEPs, 3) provide notice of Student’s June 9, 2009 IEP to Student’s District appointed surrogate parent, 4) remove Student’s surrogate parent for non-performance, 5) assess Student in the areas of behavior, social skills and speech and language, 6) provide appropriate related services in speech and language, social skills, and mental health, 7) provide a behavior plan and behavior supports, and 8) provide academic support in writing and math. Each of Student’s claims is supported by related facts. Student’s complaint includes proposed resolutions.

District contends that portions of Student’s allegations of the issues contained in part IV, Sections B and C are not sufficiently specific to notify District of facts supporting each of Student’s claims. District also contends that Student’s complaint includes inaccurate cross-references rendering the complaint ambiguous in part.

The facts alleged in Student’s complaint are sufficient to put the District on notice of the issues forming the basis of the complaint. Student’s complaint identifies the issues and

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).

adequate related facts relating to each problem to permit District to respond to the complaint and participate in a resolution session and mediation. The alleged inaccurate cross references do not render the complaint ambiguous when it is read in its entirety.

Therefore, the 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.

Dated: March 21, 2011

/s/

ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings