

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

TEMECULA VALLEY UNIFIED
SCHOOL DISTRICT AND RIVERSIDE
COUNTY DEPARTMENT OF MENTAL
HEALTH.

OAH CASE NO. 2011060230

ORDER OF DETERMINATION OF
SUFFICIENCY OF DUE PROCESS
COMPLAINT

On June 03, 2011, Parent, on behalf of Student, filed a Due Process Hearing Request¹ (complaint) naming Temecula Valley Unified School District (District) and Riverside County Department of Mental Health (Mental Health). On June 17, 2011, Mental Health filed a Notice of Insufficiency (NOI) as to Student's complaint. On June 20, 2011, Student filed a response to Mental Health's NOI.

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

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

The facts alleged in Student’s complaint are sufficient to put District and Mental Health on notice of the issues forming the basis of the complaint. Student’s complaint alleges that District and Mental Health failed to provide Student a FAPE during the 2009-2010 and 2010-2011 school years. Student contends that District failed to appropriately assess in a timely manner, failed to make a timely referral to Mental Health; failed to offer appropriate placement and services; failed to properly implement his individualized education program (IEP) of February 12, 2010; failed to complete the assessment process in a timely manner; failed to complete the IEP process in a timely manner; and failed to have a representative at the IEP team meeting who was authorized to offer services. Student alleges that Mental Health failed to appropriately assess in a timely manner; failed to offer appropriate placement and services; and failed to have a representative at the IEP team meeting who was authorized to offer services.

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 issues are sufficiently pled to put District and Mental Health on notice as to the basis of Student's claims reading the complaint in its entirety and liberally construing it in light of the broad remedial purposes of the IDEA and the relative informality of the due process hearings. Therefore, Student's statement of eleven claims is sufficient.

Student's proposed resolutions request reimbursement and private placement and services. A complaint is required to include proposed resolutions to the problem, to the extent known and available to the party at the time. (20 U.S.C. §1415(b)(7)(A)(ii)(IV).) Student has met the statutorily required standard of stating a resolution to the extent known and available to him at the time.

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: June 20, 2011

/s/

TROY K. TAIRA
Administrative Law Judge
Office of Administrative Hearings