

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. 2012100435

ORDER OF DETERMINATION OF  
SUFFICIENCY OF DUE PROCESS  
COMPLAINT

On October 5, 2012, Student filed a due process hearing request<sup>1</sup> (complaint) naming the Torrance Unified School District (District).

On October 19, 2012, District 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.<sup>2</sup> 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.<sup>3</sup> These requirements prevent vague and confusing complaints, and promote fairness by providing the

---

<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> 20 U.S.C. § 1415(b) & (c).

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

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 Administrative Law Judge.<sup>7</sup>

## DISCUSSION

Student’s complaint alleges that over the past two years, despite notice to District of Student’s declining mental health and resultant inability to function in the school environment, District failed to identify Student’s emotional difficulties as an area of need, or to appropriately address these needs in Student’s individualized education programs (IEP’s). The issues in Student’s complaint are: (1) the counseling and behavior services in the March 7, 2012 and April 3, 2012 IEP’s were insufficient to meet Student’s needs, (2) District failed to assess Student in all areas of suspected disability and to find her eligible for special education and related services as a child with serious emotional disturbance (SED) for the 2010-2011 and 2011-2012 school years, (3) Student was denied a FAPE for the 2010-2011 and 2011-2012 school years, (4) District denied Student a FAPE by failing to conduct assessments, call an emergency IEP, or implement necessary modifications to Student’s educational program when it became clear that Student’s mental health issues were impacting her school performance, and (5) the March 7 and April 3, 2012 IEP’s were devoid of strategies and interventions designed to assist Student in meeting her behavior goals. As remedies, Student seeks a determination of SED eligibility and reimbursement for private

---

<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).

placement in residential treatment programs and for private psychological and tutoring services.

District contends that Issue 4 of Student's complaint is insufficient because it fails to identify the exact date that Student's performance required assessment, an emergency IEP and/or modifications and (ii) fails to describe precisely how Student meets the criteria for SED, and that the complaint (iii) fails to explain how Student's private psychological services benefitted Student educationally.

The facts alleged in Student's complaint are sufficient to put the District on notice of the issues forming the basis of the complaint. Whether and when Student's academic performance was so impacted that District should have been on notice of Student's need for special education and services to address her emotional state, whether Student meets the eligibility criteria for SED, and whether Student's private therapy benefitted her educationally, are matters for proof at hearing and are not necessary to provide District with an awareness and understanding of the issues forming the basis of the complaint. Student's complaint identifies the issues and adequate related facts about the problem to permit District to respond to the complaint and participate in a resolution session and mediation.

#### 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: October 30, 2012

/s/

---

ALEXA J. HOHENSEE  
Administrative Law Judge  
Office of Administrative Hearings