

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. 2016050422

ORDER OF DETERMINATION OF  
SUFFICIENCY OF DUE PROCESS  
COMPLAINT

On May 9, 2016, Student filed a Due Process Hearing Request<sup>1</sup> (complaint) with the Office of Administrative Hearings naming Torrance Unified School District. On May 18, 2016, Torrance filed a Notice of Insufficiency 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. (20 U.S.C. § 1415(b) & (c).) 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 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. (20 U.S.C. § 1415(b)(7)(A)(ii)(III) & (IV).) 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. (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." (Sen. Rep. No. 108-185,

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<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 U.S.C. section 1415(b)(7)(A).

*supra*, at p. 34.) 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. (*Alexandra R. ex rel. Burke v. Brookline School Dist.* (D.N.H., Sept. 10, 2009, CIV. 06-CV-0215-JL) 2009 WL 2957991[nonpub. opn.]; *Escambia County Bd. 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, 8:04CV2657T24EAJ) 2005 WL 2850076 [nonpub. opn.]; but cf. *M.S.-G v. Lenape Regional High School Dist. Bd. of Educ.* (3d Cir. 2009) 306 Fed.Appx. 772, 775 [nonpub. opn.].) Whether the complaint is sufficient is a matter within the sound discretion of the Administrative Law Judge. (*Assistance to States for the Educ. of Children with Disabilities & Preschool Grants for Children with Disabilities* (Aug. 14, 2006) 71 FR 46,540-46541, 46699.)

## DISCUSSION

The facts alleged in Student's complaint are sufficient to put Torrance on notice of the issues forming the basis of the complaint. Student's complaint identifies the issues and adequate related facts about the problem to permit Torrance to respond to the complaint and participate in a resolution session and mediation.

Specifically, regarding issues in the 2013-2014 school year, Torrance contends that Student failed to assert any basis for tolling the statute of limitations. Whether or not these issues are beyond the statute of limitations is not the subject of a Notice of Insufficiency, and the issues in Student's complaint are not deemed insufficient on this basis. This Order does not preclude Torrance from filing other motions regarding the statute of limitations.

Student alleges that Torrance failed to provide appropriate placement and services in the 2013-2014 school year, and Torrance asserts that Student only described one deficiency related to reading programs and no facts related to placement. Student is not obligated to describe additional deficiencies in services, and Student has adequately identified the claim that her placement and services were not appropriate. While further detail can be elicited at the prehearing conference, the facts as pled are sufficient to put Torrance on notice of Student's challenge to the placement and services in the 2013-2014 school year.

Torrance similarly contends that Student does not allege sufficient facts related to the claim that Torrance failed to provide appropriate placement and services in the 2015-2016 school year. However, the facts supporting this issue describe, for example, how Student's classroom environment was inappropriate for Student's medical condition and auditory processing impairment and resulted in lost instructional time and difficulty learning. Student also described why it was inappropriate for supplemental services to be provided after school. Such descriptions are adequate to put Torrance on notice regarding Student's claim.

Student's proposed resolutions include a request for reimbursement for the cost of an auditory processing assessment and implementation of the report's recommendations. 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).) The proposed resolution stated in Student's complaint is well-defined. Student has met the statutorily required standard of stating a resolution to the extent known and available to her at the time the complaint is drafted.

Accordingly, Student's statement of the claims and resolutions is sufficient. Although the issues and resolutions are deemed sufficient, nothing precludes the ALJ conducting the prehearing conference in this matter from further refining the issues in consultation with the parties or Torrance from requesting further clarification in the prehearing conference or raising its arguments as defenses at hearing.

### 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.

DATE: May 19, 2016

DocuSigned by:  
*Lisa Lunsford*  
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LISA LUNSFORD  
Administrative Law Judge  
Office of Administrative Hearings