

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. 2016060867

ORDER OF DETERMINATION OF
SUFFICIENCY OF DUE PROCESS
COMPLAINT

On June 9, 2016, Student filed a Due Process Hearing Request¹ (complaint) with the OAH naming Torrance Unified School District.² On June 24, 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.)

¹ 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).

² In its Notice of Insufficiency, Torrance asserts that it received the complaint on June 8, 2016. However, the complaint was received by OAH after 5:00 p.m. on June 8, 2016, and therefore OAH deems it was filed on June 9, 2016.

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, *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

Torrance claims that Student’s complaint is insufficiently pled because it is uncertain as to what period of time complaint is referring to in relation to the first issue. Two individualized education program meetings are referred to in the complaint, one in February 2015, and another in April 2016. However, reading the complaint in its entirety, it is apparent that Student is claiming that for the 2015-2016 school year he was 1) not placed in an appropriate transition program for the period in question, and 2) that the program failed to address his transition needs.

Torrance also claims that it cannot distinguish the difference between the two sub-issues, as described above, the first being placed in an inappropriate transition program, and the second that the program failed to address Student’s transition needs. However, these claims can be distinguished. First, Student is disagreeing with his placement in the program in question, claiming the program in its entirety was inappropriate in that it was geared to a population that was cognitively and academically below his level. Student’s request for placement in a program outside Torrance as a proposed resolution highlights what Student considers to be an appropriate program. Secondly, Student claims that the Torrance program failed to address his needs, in that his particular individual interests and abilities were not considered in the program, and thus he was denied a free appropriate public education.

Student’s second issue, which was not addressed in Torrance’s Notice of Insufficiency, concerns the implementation of his IEP for the 2015-2016 school year. Student claims he did not receive the counseling that was specified in his IEP from August to December 2016.

The facts alleged in Student’s complaint are sufficient to put Torrance on notice of the issues forming the basis of the complaint. The complaint identifies the issues and contains adequate related facts about the problem to permit Torrance to respond to the complaint and

participate in a resolution session and mediation. Therefore, Student's complaint is sufficiently pled.

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: June 28, 2016

DocuSigned by:

Rebecca Freie

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REBECCA FREIE

Administrative Law Judge

Office of Administrative Hearings