

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

Parent(s) on behalf of Student,

v.

LANCASTER SCHOOL DISTRICT.

OAH CASE NO. 2009010691

DETERMINATION OF SUFFICIENCY  
OF DUE PROCESS COMPLAINT

On January 25, 2009, Parent, on behalf of Student filed a Due Process Hearing Request (complaint) naming Lancaster School District (District) as the respondent.

On February 10, 2009, District filed a Notice of Insufficiency (NOI) as to Student's complaint.

DISCUSSION

The respondent to a due process hearing request has the right to challenge the sufficiency of the complaint. (20 U.S.C. § 1415(b) & (c).) In general, fundamental principles of due process entitle the respondent to know the nature of the allegations being made against it, such that respondent may prepare a defense. (Tadano v. Manney (9th Cir. 1947) 160 F.2d 665, 667; Hornsby v. Allen (5th Cir. 1964) 326 F.2d 605, 608.)

The party filing the complaint is not entitled to a hearing unless the complaint meets the requirements of section 1415(b)(7)(A). A complaint is sufficient if it contains: (1) a description of the nature of the problem 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. (§ 1415(b)(7)(A)(ii)(III) & (IV).) The determination of whether a complaint is sufficient is made by looking at the face of the complaint. (§ 1415(c)(2)(D).)

District challenges the two allegations contained in Student's complaint as insufficient because they are too general. In issue one, Student alleges that District denied him a FAPE by failing to hire qualified personnel to provide special education and related services and failing to keep Student free from harm. Student further describes the nature of the allegation as the failure to utilize appropriate aversive behavioral management techniques and to implement an appropriate behavior support plan. Student provides purported factual examples of District's alleged inappropriate behavior management system. Student also provides specific proposed resolutions. In issue two, Student alleges that District denied him

a FAPE by failing to provide him an alternative appropriate and safe classroom setting. Student generally describes the factual basis of the purported deficiencies in the District's proposed alternative placements. Student also proposes specific resolutions to issue two. Student's complaint meets the requirements of section 1415(b)(7)(A) and is sufficient.

**ORDER**

1. The complaint is deemed sufficient.
2. All mediation, prehearing conference, and hearing dates in this matter shall remain on calendar.

**IT IS SO ORDERED.**

Dated: February 18, 2009

/s/  
EILEEN M. COHN  
Administrative Law Judge  
Office of Administrative Hearings