

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. 2009080147

DETERMINATION OF SUFFICIENCY  
OF DUE PROCESS COMPLAINT

On August 3, 2009, Parent, on behalf of Student, filed a Due Process Hearing Request (complaint) against the Torrance Unified School District (District).<sup>1</sup> On August 13, 2009, attorney Sharon A. Watt, on behalf of the District, filed a Notice of Insufficiency (NOI) as to Student's complaint.

APPLICABLE LAW

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. (§ 1415(b)(7)(A)(ii)(III) & (IV);<sup>2</sup> Ed. Code, § 56502, subd. (c)(1).)

The complaint is deemed sufficient unless the party against whom the complaint has been filed notifies the Office of Administrative Hearings (OAH) and the other party, in writing, within 15 days of receiving the complaint, that the complaint has not met the notice requirements. (§ 1415(c)(2)(C); Ed. Code, § 56502, subd. (d)(1).) Section 1415(c)(2)(D) requires that the sufficiency of the complaint be evaluated based on the face of the complaint.

The party against whom the complaint has been filed is entitled to know the nature of the specific allegations being made against it, such that the party may be able to prepare a

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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 United States Code section 1415(b)(7)(A).

<sup>2</sup> All statutory citations are to Title 20 United States Code unless otherwise noted.

defense. (*Tadano v. Manney* (9th Cir. 1947) 160 F.2d 665, 667; *Hornsby v. Allen* (5th Cir. 1964) 326 F.2d 605, 608.)

## DISCUSSION

Student's complaint alleges one issue against the District. The issue involves the District's purported denial of FAPE by not offering Student a placement in the least restrictive environment.

Regarding the issue for hearing, Student's complaint does not contain sufficient factual allegations to provide the required notice to the District because the complaint does not state why the District's placement in a special day classroom is not the least restrictive environment and how Student can be appropriately educated in a general education classroom at Student's home school with one-to-one support. There are no facts provided about Student's unique needs related to his disability and why the District's placement does not meet those needs.

As discussed above, a responding party is entitled to know the basis of each claim and the nature of the specific allegations being made against it, with respect to each issue or problem, so that the responding party may be able to prepare a response, prepare for a resolution session, or prepare a defense for hearing. Therefore, Student failed to state sufficient facts supporting the issue for hearing.

Pursuant to Education Code section 56505, subdivision (e)(6), a parent who is not represented by an attorney may request that OAH provide a mediator to assist the parent in identifying the issues and proposed resolutions that must be included in a complaint. If Parent requests the assistance of a mediator, they should contact OAH immediately in writing.

## ORDER

1. Pursuant to section 1415(c)(2)(D), Student's complaint is insufficiently pled, and the District's notice of insufficiency is granted.
2. Pursuant to section 1415(c)(2)(E)(i)(II), Student shall be permitted to file an amended complaint.<sup>3</sup>

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<sup>3</sup> The filing of an amended complaint will restart the applicable timelines for a due process hearing.

3. The amended complaint shall comply with the requirements of section 1415(b)(7)(A)(ii), and shall be filed not later than 14 days from the date of this order.

4. If Student fails to file a timely amended complaint, the complaint will be dismissed.

5. All dates previously set in this matter are vacated.

Dated: August 18, 2009

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PETER PAUL CASTILLO  
Administrative Law Judge  
Office of Administrative Hearings