

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. 2009110044

DETERMINATION OF SUFFICIENCY
OF DUE PROCESS COMPLAINT

On October 28, 2009, Student filed a request for due process hearing (complaint) naming the District.¹ On November 10, 2009, the District filed a Notice of Insufficiency (NOI) as to Student's complaint.

APPLICABLE LAW

The named party to a due process hearing request has the right to challenge the sufficiency of the complaint. (20 U.S.C. § 1415(b) & (c).)² 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 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).) In addition, fundamental principles of due process apply to administrative proceedings in special education matters. The respondent is entitled to know the nature of the specific allegations being made against it, such that respondent may be able to 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.)

¹ 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).

² All statutory citations are to Title 20 United States Code unless otherwise noted.

DISCUSSION

The facts alleged in Student's complaint are sufficient to put the District on notice of the issues forming the basis of the complaint. Student's complaint identifies the issues and adequate facts related to the problem to permit the District to respond to the complaint and prepare a defense at hearing. While additional information regarding the nature of the problem would have been helpful, including the time frame of the issue related to math, when read in context and as a whole, the complaint provides enough information to meet the minimum pleading requirements under state and federal law. .

Accordingly, the complaint is sufficient. All dates are confirmed

IT IS SO ORDERED.

Dated: November 12, 2009

/s/

RICHARD CLARK
Administrative Law Judge
Office of Administrative Hearings