

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. 2010110026

ORDER OF DETERMINATION OF  
SUFFICIENCY OF DUE PROCESS  
COMPLAINT

On October 26, 2010 Student filed a Due Process Hearing Request<sup>1</sup> (complaint) naming District as the respondent. On November 10, 2010, District filed a Notice of Insufficiency (NOI) as to Student's complaint. As discussed below, Student's complaint is sufficient.

APPLICABLE LAW

The named parties to a due process hearing request have the right to challenge the sufficiency of the complaint.<sup>2</sup> 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 (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.<sup>3</sup> These requirements prevent vague and confusing complaints, and promote fairness by providing the

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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> 20 U.S.C. § 1415(b) & (c).

<sup>3</sup> 20 U.S.C. § 1415(b)(7)(A)(ii)(III) & (IV).

named parties with sufficient information to know how to prepare for the hearing and how to participate in resolution sessions and mediation.<sup>4</sup>

The complaint provides enough information when it provides “an awareness and understanding of the issues forming the basis of the complaint.”<sup>5</sup> 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.<sup>6</sup> Whether the complaint is sufficient is a matter within the sound discretion of the Administrative Law Judge.<sup>7</sup>

## DISCUSSION

The complaint alleged that Student was a five year old child eligible for special education and related services on the basis of autism who exhibited inattention, self-stimulatory and other problematic behaviors. The complaint stated fourteen “problems,” the first six of which identified separate procedural or substantive deficits in the November 16, 2009 IEP offer of FAPE: (1) failure to offer appropriate aide support; (2) failure to offer appropriate home-based behavior intervention services; (3) failure to offer placement in the least restrictive environment; (4) failure to state goals to address all areas of deficit, specifically in the area of social interaction; (5) inappropriate staffing for District’s behavior support plan; and (6) failure to offer appropriate speech and language services. Problems seven through twelve identified separate procedural or substantive deficits in District’s June 21, 2010 triennial IEP offer of FAPE: (7) failure to offer appropriate aide support; (8) failure to offer appropriate home-based behavioral intervention services; (9) failure to offer placement in the least restrictive environment; (10) failure to state goals to address all areas of deficit, specifically in the areas of attention and social interaction; (11) inappropriate staffing for District’s behavior support plan; and (12) failure to offer appropriate speech and language services. Problem thirteen alleged a failure to assess Student in all areas of

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<sup>4</sup> See, H.R.Rep. No. 108-77, 1st Sess. (2003), p. 115; Sen. Rep. No. 108-185, 1st Sess. (2003), pp. 34-35.

<sup>5</sup> Sen. Rep. No. 108-185, *supra*, at p. 34.

<sup>6</sup> *Alexandra R. v. Brookline School Dist.* (D.N.H., Sept. 10, 2009, No. 06-cv-0215-JL) 2009 WL 2957991 at p.3 [nonpub. opn.]; *Escambia County Board 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, No. 8:04CV2657T24EAJ) 2005 WL 2850076 at p. 3[nonpub. opn.] ; but cf. *M.S.-G. v. Lenape Regional High School Dist.* (3d Cir. 2009) 306 Fed.Appx. 772, at p. 3[nonpub. opn.].

<sup>7</sup> Assistance to States for the Education of Children With Disabilities and Preschool Grants for Children With Disabilities, 71 Fed.Reg. 46540-46541, 46699 (Aug. 14, 2006).

suspected disability. Problem fourteen related to the addendum IEP of October 12, 2010 and alleged failure to consider the results of an independent assessment.

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 related facts about the problem to permit District to respond to the complaint and participate in a resolution session and mediation.

Therefore, Student's statement of the claims is sufficient.

#### 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.

Dated: November 10, 2010

/s/

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JUNE R. LEHRMAN  
Administrative Law Judge  
Office of Administrative Hearings