

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. 2012030053

ORDER OF DETERMINATION OF  
SUFFICIENCY OF DUE PROCESS  
COMPLAINT

On February 29, 2012, Student filed a Due Process Hearing Request<sup>1</sup> (complaint) naming the Torrance Unified School District (District) as respondent.

On March 15, 2012, District filed a Notice of Insufficiency (NOI) 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.<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

Student is 14 years old and eligible for special education and related services as a student with serious emotional disturbance.

Student’s complaint alleges that District failed to offer Student a free and appropriate public education (FAPE) at the December 13, 2011 individualized education program (IEP) team meeting, because District (i) failed to assess Student for a specific learning disability and for other areas of need (speech and language, fine motor skills and adaptive behavior) and relied upon a psychoeducational assessment that failed to include a behavioral component or classroom observation, let alone a functional analysis assessment (FAA) to address Student’s social, emotional and behavioral difficulties, (ii) failed to document Student’s present levels of performance with the particularity necessary to measure whether Student had made progress, (iii) failed to draft goals to address Student’s areas of deficit, particularly poor social skills and maladaptive behaviors, (iv) failed to offer appropriate behavioral, social and emotional services, (v) and failed to offer appropriate educationally related mental health services, including a behavior support plan (BSP) and related adaptive

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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).

behavioral skills training. Student requests an FAA and imposition of a BSP, with a broad range of compensatory academic and behavioral services as further proposed resolutions.

District contends that the allegation that District failed to document present levels of performance “particularly with respect to [Student’s] functioning,” is vague, and that Student fails to explain why she needs adaptive behavior skills training, so as to warrant a finding that the complaint is insufficient.

Student’s recitation of facts regarding her inability to progress in the District’s residential program without multiple intervening psychiatric interventions, and her request for more comprehensive assessment of her needs as well as compensatory services, adequately provides a description of the nature of the problem, related facts and proposed resolutions. Therefore, Student’s complaint 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: March 19, 2012

/s/  
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ALEXA J. HOHENSEE  
Administrative Law Judge  
Office of Administrative Hearings