

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. 2012030435

ORDER OF DETERMINATION OF  
SUFFICIENCY OF DUE PROCESS  
COMPLAINT

On March 13, 2012, Student filed a Due Process Hearing Request<sup>1</sup> (complaint) against the Torrance Unified School District (District) with the Office of Administrative Hearings (OAH). On March 20, 2012, the District filed a Notice of Insufficiency (NOI) as to Student's complaint. On March 23, 2012, OAH granted the District's NOI and gave Student 14 days to file an amended complaint.

On April 12, 2012, Student filed an amended complaint. On April 12, 2012, the District filed an NOI as to Student's amended 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

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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).

requirements prevent vague and confusing complaints, and promote fairness by providing the 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 Individuals with Disabilities Education Act 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’s amended complaint contains two issues for hearing regarding the District’s alleged failure to adequately address his social-emotional needs related to other students teasing him.<sup>8</sup> Student’s amended complaint contains an adequate narrative regarding his special educational struggles and needs related to other students teasing him that prevented him from accessing his curriculum. The first issue provides the District with adequate notice as to when and why the District needed to have modified his existing behavior support plan to adequately address his social-emotion deficits. Student alleges sufficient facts in the second issue that the District needed to provide additional goals, plus speech and language counseling services to meet his social-emotional needs. Accordingly, Student alleges sufficient facts supporting these claims to put the District on notice, and therefore his amended complaint is sufficient.

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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).

<sup>8</sup> Student’s amended complaint does not break his contentions into specific numbered issues. If Student wishes to allege additional issues against the District, Student will need to file a motion to file a second amended complaint.

Student's proposed resolution request is that the District fund a placement in a non-public school, an independent speech and language assessment and counseling. A complaint is required to include proposed resolutions to the problem, to the extent known and available to the party at the time. (20 U.S.C. §1415(b)(7)(A)(ii)(IV).) The proposed resolution stated in Student's amended complaint is well-defined and meets the statutorily required standard of stating a resolution to the extent known and available to Student at the time.

#### ORDER

1. The amended 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: April 13, 2012

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PETER PAUL CASTILLO  
Administrative Law Judge  
Office of Administrative Hearings