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. 2014070138 ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

On June 24, 2014, Student filed a Due Process Hearing Request[1] (complaint) naming Torrance Unified School District (Torrance). On July 9, 2014, Torrance filed a Notice of Insufficiency (NOI) as to Student's complaint.

APPLICABLE LAW

A due process hearing request's named parties can challenge a complaint's sufficiency.[2] The party filing the complaint is entitled to a hearing only if the complaint meets the requirements of title 20 United States Code section 1415(b)(7)(A).

A complaint is sufficient if it: (1) describes the nature of the problem relating to a proposed initiation or change concerning identifying, evaluating, or educationally placing the child, or providing that child a free appropriate public education FAPE; (2) asserts facts relating to the problem; and (3) includes a proposed resolution(s) to the extent known and available to the party at the time the complaint is filed.[3] These requirements prevent vague and confusing complaints, and promote fairness by providing the parties' sufficient information to prepare for the hearing and to participate in resolution sessions and mediation.[4]

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[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] 20 U.S.C. § 1415(b) & (c).

[3] 20 U.S.C. § 1415(b)(7)(A)(ii)(III) & (IV).

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

The complaint is sufficient when it provides "an awareness and understanding of the issues forming the basis of the complaint."[5] The pleading requirements should be liberally construed due to the IDEA's broad remedial purpose and the due process hearings' relative informality.[6] Whether the complaint is sufficient is a matter within the sound discretion of the Administrative Law Judge.[7]

DISCUSSION

Student alleges sufficient facts to put Torrance on notice of the issues forming the basis of the complaint. Specifically, Student contends Torrance denied him a FAPE during the 2012-2013 and 2013-2014 school years by: failing to offer and provide placement in the least restrictive environment; failing to offer and provide appropriate autism-specific services to address his needs in all areas including behavior; failing to develop appropriate goals and objectives; failing to timely file for due process when the parties disagreed over placement; failing to either file for due process or fund an independent educational evaluation upon parental request.

Torrance alleges that to be deemed sufficient, greater specificity must be provided. For example, Torrance asserts that Student must articulate the specific autism services he needed and identify the specific areas where goals were not provided. As noted above, the pleading requirements are liberally construed. Torrance can seek greater specificity during the prehearing conference. Student's complaint, however, identifies the issues and adequate related facts about the problem to permit Torrance to respond to the complaint and participate in a resolution session and mediation.

A complaint is also 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).) Student identifies seven specific remedies as proposed resolutions. The resolutions are well defined and Student has met the statutorily required standard of stating a resolution to the extent known and available to him at the time the complaint was filed.

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[5] Sen. Rep. No. 108-185, *supra*, at p. 34.

[6] *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.].

[7] 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).

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.

DATE: July 11, 2014

/s/

JOY REDMON
Administrative Law Judge
Office of Administrative Hearings