

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. 2016030441

ORDER OF DETERMINATION OF
SUFFICIENCY OF DUE PROCESS
COMPLAINT

On March 9, 2016, Student filed a Due Process Hearing Request¹ with the Office of Administrative Hearings naming Torrance Unified School District. On March 24, 2016, Torrance filed a Notice of Insufficiency 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. (20 U.S.C. § 1415(b) & (c).) 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 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. (20 U.S.C. § 1415(b)(7)(A)(ii)(III) & (IV).) These 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. (See H.R.Rep. No. 108-77, 1st Sess. (2003), p. 115; Sen. Rep. No. 108-185, 1st Sess. (2003), pp. 34-35.)

¹ A request for a due process hearing under Education Code section 56502 is the due process complaint notice required under title 20 U.S.C. section 1415(b)(7)(A).

The complaint provides enough information when it provides “an awareness and understanding of the issues forming the basis of the complaint.” (Sen. Rep. No. 108-185, *supra*, at p. 34.) 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. (*Alexandra R. ex rel. Burke v. Brookline School Dist.* (D.N.H., Sept. 10, 2009, CIV. 06-CV-0215-JL) 2009 WL 2957991[nonpub. opn.]; *Escambia County Bd. 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, 8:04CV2657T24EAJ) 2005 WL 2850076 [nonpub. opn.]; but cf. *M.S.-G v. Lenape Regional High School Dist. Bd. of Educ.* (3d Cir. 2009) 306 Fed.Appx. 772, 775 [nonpub. opn.].) Whether the complaint is sufficient is a matter within the sound discretion of the Administrative Law Judge. (*Assistance to States for the Educ. of Children with Disabilities & Preschool Grants for Children with Disabilities* (Aug. 14, 2006) 71 FR 46, 540-46541, 46699.)

DISCUSSION

The facts identified in Student’s complaint are sufficient to put Torrance on notice of the issues forming the basis of the complaint. The 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.

Torrance contends that Student’s complaint is insufficient to meet notification requirements because the complaint fails to include facts sufficient for Torrance to understand the nature of the alleged problems; the proposed resolutions; and the nexus between the proposed resolutions and their correlative problems. Torrance also alleges it cannot determine the relevant period of time at issue; what services should have been provided at the alleged IEP nor where or how those services should be delivered under home hospital orders; and, when Student requested an IEP team meeting or how such request was made.

Student alleges that beginning in September and November 2015, Torrance failed to abide by the terms of Student’s home and hospital instruction placement that started in 2013 and, that this failure has denied Student a FAPE continuing to the present.² Student provides specific facts describing how Torrance refused to continue Student’s education program despite having accepted Student’s special education enrollment in November 2015 based on her home and hospital instruction placement and her recent assessments, IEP, and evaluations. Student states that Torrance failed to provide any education or assistance since November 2015 and failed to schedule an IEP meeting requested by Parent.

Student clearly alleges substantive and procedural violations related to her placement and services beginning in September and November 2015. Student further alleges Torrance

² The facts supporting Student’s second issue of her complaint continue into the box for her proposed resolution of the second issue.

knew about Student's needs as an autistic minor child who had been on home and hospital instruction since 2013 and yet Torrance has failed to provide any educational services or to schedule an IEP beginning in September and November 2015 to address Student's placement or services. Student further alleges that Torrance had copies of Student's medical records and had never challenged Student's placement before September 2015. Student also claims Torrance never filed for due process at any time to challenge Student's placement, doctors' orders, medical evaluations, disability or medical history.

Student's proposed resolutions request that Torrance provide the services and placement in home and hospital instruction previously agreed to by Torrance beginning in September and November 2015; to schedule an IEP; and to provide Student with FAPE. 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 resolutions stated in Student's complaint are not well-defined. However, Student has met the statutorily required standard of stating a resolution to the extent known and available to her at the time.

Accordingly, Student's statement of the claims is sufficient. Although the issues are deemed sufficient, nothing precludes the Administrative Law Judge conducting the prehearing conference in this matter from further refining the issues in consultation with the parties. Furthermore, nothing in this order shall be construed to limit Torrance's defenses, objections or motions relating to the issues.

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: March 29, 2016

DocuSigned by:
Cheryl Carlson

CHERYL CARLSON
Administrative Law Judge
Office of Administrative Hearings