

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. 2009060131

DETERMINATION OF SUFFICIENCY
OF DUE PROCESS COMPLAINT

On May 29, 2009, Student filed a Due Process Hearing Request¹ (complaint) naming District as the respondent. On June 12, 2009, the District timely filed a Notice of Insufficiency (NOI). As discussed below, the complaint is sufficient.

The respondent to a due process hearing request has the right to challenge the sufficiency of the complaint. (20 U.S.C. § 1415(b) & (c).)² The party filing the complaint is not entitled to a hearing unless the complaint meets the requirements of 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. (§ 1415(b)(7)(A)(ii)(III) & (IV).) The determination of whether a complaint is sufficient is made by looking at the face of the complaint. (§ 1415(c)(2)(D).)

In general, fundamental principles of due process entitle the respondent to know the nature of the allegations being made against it, such that respondent may prepare a defense. (*Tadano v. Manney* (9th Cir. 1947) 160 F.2d 665, 667; *Hornsby v. Allen* (5th Cir. 1964) 326 F.2d 605, 608.)

Here, all of Student's complaint meets the requirements set forth above. Overall, Student provided detailed factual allegations regarding the interactions with the District that support the issues set forth in the complaint. Issue One alleges the follow violations of the IDEA within the limitations period: failure to provide prior written notice at various times;

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 All statutory citations are to Title 20 United States Code unless otherwise noted.

predetermination of various IEP offers; failure to have an IEP in place prior to the beginning of the 2008-2009 school year; and failure to timely hold an IEP following assessments. Issue Two alleges that within the limitations period the District failed to appropriately assess Student in all areas of suspected disability. Finally, Issue Three of the complaint alleges that the District failed to provide Student with a free appropriate public education during the limitations period by: failing to offer appropriate goals; failing to offer appropriate related services such as occupational therapy, counseling and behavior intervention; and failing to offer an appropriate placement. The complaint is supported by detailed proposed resolutions to the above issues. No more is required under the IDEA.

The complaint is deemed sufficient pursuant to section 1415(c)(2)(C) and Education Code section 56502, subdivision (d)(1). All mediation, prehearing conference, and hearing dates in this matter shall remain on calendar.

IT IS SO ORDERED.

Dated: June 15, 2009

/s/

RICHARD T. BREEN
Administrative Law Judge
Office of Administrative Hearings