

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT on behalf of STUDENT,

v.

SHORELINE UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2010020343

DETERMINATION OF SUFFICIENCY
OF DUE PROCESS COMPLAINT

On February 9, 2010 Student filed a Due Process Hearing Request¹ (complaint) naming Shoreline Unified School District (District) as the respondent. The complaint identified the following “problems” related to the denial of a FAPE: 1) Student should have been made eligible for special education under various identified categories as of February 21, 2007; 2) After February 21, 2007 Student was not provided with an appropriate placement and services; 3) If Student was ineligible in 2007, then he still should have been assessed in 2008-2009; 4) Student should have been made eligible for special education and provided services in the 2008-2009 school year; and 5) Student should have been made eligible for special education and provided services in the 2009-2010 school year. As supporting facts, Student alleges the prior testing done by the District and specific facts about Student’s academic struggles during the years at issue. As proposed remedies, Student seeks a combination of tuition reimbursement for a private school placement, compensatory education, and additional assessments. On February 23, 2010, District timely filed a Notice of Insufficiency (NOI). Student filed a “response” to the NOI on February 23, 2010. The “response” was not considered because sufficiency is determined from the face of the complaint. As discussed below, the complaint is sufficient.

The named parties to a due process hearing request have the right to challenge the sufficiency of the complaint.² 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

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).

resolution of the problem to the extent known and available to the party at the time.³ 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.⁴

The complaint provides enough information when it provides “an awareness and understanding of the issues forming the basis of the complaint.”⁵ 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.⁶ Whether the complaint is sufficient is a matter within the sound discretion of the ALJ.⁷

Here, the District has more than ample notice of the nature of the “problems” alleged by Student and the proposed resolutions. The IDEA does not require more. The complaint is sufficient on its face.

ORDER

1. The complaint is sufficient.
2. All dates remain on calendar.

Dated: February 25, 2010

/s/

RICHARD T. BREEN
Administrative Law Judge
Office of Administrative Hearings

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.

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).