

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

TEMECULA VALLEY UNIFIED
SCHOOL DISTRICT and RIVERSIDE
COUNTY DEPARTMENT OF MENTAL
HEALTH.

OAH CASE NO. 2011010573

ORDER OF DETERMINATION OF
SUFFICIENCY OF DUE PROCESS
COMPLAINT

On January 19, 2011, Student's parent on behalf of Student (Student) filed a due process hearing request¹ (complaint) naming the Temecula Valley Unified School District (District) and Riverside County Department of Mental Health (RCDMH).

On February 2, 2011, RCDMH filed a notice of insufficiency (NOI) as to Student's complaint. On February 8, 2011, the Office of Administrative Hearings (OAH) issued an order finding that complaint was insufficiently pled and giving Student 14 days to file an amended complaint.

On February 9, 2011, Student filed an amended request for due process hearing (amended complaint). On February 23, 2011, RCDMH filed an NOI as to the amended complaint.

APPLICABLE LAW

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).

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).

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.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 Administrative Law Judge.⁷

DISCUSSION

The facts alleged in Student’s amended complaint are sufficient to put the District and RCDMH on notice of the issues forming the basis of the amended complaint. While the amended complaint could be pled with more specificity, it contains sufficient facts, dates, and allegations regarding events to provide the required notice.

RCDMH argues that the facts alleged in the amended complaint involve events that took place during the 2009-2010 school year, but the amended complaint alleges a denial of a free appropriate public education (FAPE) during the 2010-2011 school year. Although this

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).

might seem confusing at first, it is still a sufficient pleading. Student could have chosen to allege a denial of a FAPE for both the 2009-2010 and the 2010-2011 school years based on the facts alleged in the amended complaint. Student apparently chose only to seek a remedy based on the denial of FAPE during the second of the two school years. Student's choice in this regard does not make the amended complaint insufficient. To the extent that the respondents' earlier actions led to a denial of FAPE during the 2010-2011 school year, Student may proceed with this case.

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.

Dated: February 24, 2011

/s/

SUSAN RUFF
Administrative Law Judge
Office of Administrative Hearings