

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. 2012030733

ORDER OF DETERMINATION OF  
SUFFICIENCY OF DUE PROCESS  
COMPLAINT

On March 20, 2012 Student filed a Due Process Hearing Request<sup>1</sup> (complaint) naming Torrance Unified School District (District) as respondent.

On April 4, 2012 District timely filed a Notice of Insufficiency (NOI) as to Student's complaint.

On April 5, 2012 Student filed a Response to District's Notice of Insufficiency.

APPLICABLE LAW

The named parties to a due process hearing request have the right to challenge the sufficiency of the complaint.<sup>2</sup> 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 resolution of the problem to the extent known and available to the party at the time.<sup>3</sup> These

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<sup>1</sup> 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).

<sup>2</sup> 20 U.S.C. § 1415(b) & (c).

<sup>3</sup> 20 U.S.C. § 1415(b)(7)(A)(ii)(III) & (IV).

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.<sup>4</sup>

The complaint provides enough information when it provides “an awareness and understanding of the issues forming the basis of the complaint.”<sup>5</sup> 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.<sup>6</sup> Whether the complaint is sufficient is a matter within the sound discretion of the Administrative Law Judge.<sup>7</sup>

## DISCUSSION

Student’s complaint alleges six problems and proposes six resolutions:

(1) District failed to provide Student a free appropriate public education (FAPE) from March 19, 2010 until the present time, and failed to offer Student a FAPE in an IEP on November 28, 2011, by failing to determine appropriate eligibility. Student identifies the challenged IEP by date and alleges Parents obtained an independent evaluation due to District’s failure to properly assess and Student’s failure to progress. Student seeks reimbursement for the independent evaluation and a change in Student’s eligibility.

(2) Student contends District failed to provide FAPE for the 2010 extended school year (ESY) by failing to provide appropriate services. Student describes Student’s difficulties with the ESY provided and Parents’ unilateral private placement of Student in a program to prevent Student’s regression. Student seeks reimbursement for this placement.

(3) Student challenges a speech and language assessment, an occupational therapy assessment, and the failure to conduct particular mental health assessments in connection with an IEP on February 2, 2012. Student seeks District funding for independent assessments in these areas.

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

<sup>5</sup> Sen. Rep. No. 108-185, *supra*, at p. 34.

<sup>6</sup> *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.].

<sup>7</sup> 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).

(4) Student contends the February 2, 2012 IEP fails to provide speech and language goals and services for the 2011-2012 school year. Student seeks implementation of appropriate goals and services upon obtaining the independent assessment requested in the proposed resolution number 3.

(5) Student seeks school records for the 2011-2012 school year. The records sought are identified by date and content.

(6) Student contends he has been denied an appropriate educational placement since March 19, 2010, Student alleges specific facts about his educational progress, his particular academic difficulties, the dates of the IEP meetings at issue, the current offer of FAPE, and Student's unique needs that are not met by the offer. Student seeks placement in a non-public school, specialized instruction and behavior supports, and other accommodations.

The IDEA requires only a "description of the nature of the problem" (20 U.S.C. (b)(7)(A)(ii)(III)), a requirement liberally construed in light of the remedial and informal nature of the due process proceedings. Student's complaint identifies the issues, adequate related facts about the problem, and proposed resolutions that permit District to prepare for hearing and participate in a resolution session and mediation. Accordingly, the complaint is sufficient.

#### 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: April 05, 2012

/s/

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MARIAN H. TULLY  
Administrative Law Judge  
Office of Administrative Hearings