

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

CARPINTERIA UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2012040525

ORDER OF DETERMINATION OF
SUFFICIENCY OF DUE PROCESS
COMPLAINT

On April 12, 2012, Parent on behalf of Student (Student) filed a Due Process Hearing Request¹ (complaint) naming the Carpinteria Unified School District (District) as respondent.

On April 26, 2012, the District filed a Notice of Insufficiency (NOI) as to Student's complaint.

In his complaint, Student contends that the District denied him a free appropriate public education (FAPE) when it failed to meet its child find obligations as Student "demonstrated a suspected disability related to possible learning deficits." (Complaint p. 2.) As factual support for his claim, Student alleges the following:

[Student] has just turned eight years old, and attends Aliso Elementary School, in the Carpinteria Unified School District. [Student] has demonstrated a suspected disability related to possible learning deficits, given [Student's] level of intelligence and lack of academic achievement, and extreme behaviors, which as of yet, remain of undetermined etiology. These disabilities have been noted by the District as impacting his ability to access his education, since December of 2009, as per District documentation. Multiple interventions have been attempted, but have not resolved [Student's] behavior, [Student] remains struggling academically, and yet, the District has failed to refer [Student] for assessment for special education eligibility determination. Instead, the District has suspended [Student].

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).

In its NOI, the District contends that the complaint fails to provide enough information for it to respond to Student's complaint. The District contends that Student has failed to provide (a) a description of his alleged disabilities, (b) facts as to how Student's education has been impacted since December 2009, (c) facts as to what behavioral interventions were attempted, (d) and facts supporting the allegation that Student has struggled academically. Additionally, the District claims that the sole issue is vague because Student fails to allege that he would be eligible for special education.

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).

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.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

² 20 U.S.C. § 1415(b) & (c).

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.

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 complaint are sufficient to put the District on notice of the issues forming the basis of the complaint. Student's complaint identifies the issues and adequate related facts about the problem to permit the District to respond to the complaint and participate in a resolution session and mediation.

Therefore, Student's 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.

April 30, 2012

/s/

ROBERT HELFAND
Administrative Law Judge
Office of Administrative Hearings

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).