BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. VAL VERDE UNIFIED SCHOOL DISTRICT.	OAH CASE NO. 2014011021 ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

On January 29, 2014, Parent on behalf of Student (Student) filed a Due Process Hearing Request[1] (complaint) naming the Val Verde Unified School District (Val Verde).

On February 10, 2014, Val Verde filed a Notice of Insufficiency (NOI) as to Student's 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).

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. (20 U.S.C. § 1415(b)(7)(A)(ii)(III) & (IV)) These requirements prevent vague and confusing complaints, and promote fairness by providing the named parties with sufficient information

[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).

to know how to prepare for the hearing and how to participate in resolution sessions and mediation.[3]

The complaint provides enough information when it provides "an awareness and understanding of the issues forming the basis of the complaint."[4] The pleading requirements should be *liberally* construed in light of the broad remedial purposes of the Individuals with Disabilities Education Act (IDEA) and the relative informality of the due process hearings it authorizes.[5] Whether the complaint is sufficient is a matter within the sound discretion of the Administrative Law Judge.[6]

DISCUSSION

Student's complaint contains only one issue for hearing. The complaint alleges that Val Verde denied her Parent's request for an independent educational evaluation in the area of functional behavior analysis (independent FBA), on or around December 11, 2013, in violation of her rights under the IDEA. In her complaint, Student indicated that her sole issue relates to the identification, evaluation, education placement, and Val Verde's obligation to provide a FAPE to her, and as such she is entitled to a due process hearing under the IDEA.

Based on the totality of the facts presented, Student complaint adequately identifies the problem it seeks to redress, and provides related facts sufficient to allow Val Verde to prepare a defense, and participate in a resolution session and mediation. The complaint provides a description of the nature of the problem sufficient to put Val Verde on notice. Therefore, Student's complaint is sufficiently pled.

Regarding the proposed resolution, Student requests that Val Verde funds an independent FBA at public expense. The proposed resolution stated in Student's complaint

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[3] See, H.R.Rep. No. 108-77, 1st Sess. (2003), p. 115; Sen. Rep. No. 108-185, 1st Sess. (2003), pp. 34-35.

[4] Sen. Rep. No. 108-185, *supra*, at p. 34.

[5] *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.].

[6] 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).

is well-identified and meets the statutorily required standard of stating a resolution to the extent known and available at this time.

Therefore, Student's complaint is sufficiently pled for this reason also.

ORDER

1. Student's complaint is sufficiently pled against pursuant title 20 United States Code section 1415(b)(7)(A)(ii).

2. All mediation, prehearing conference, and hearing dates in this matter are confirmed.

DATE: February 11, 2014

ADENIYI AYOADE
Administrative Law Judge
Office of Administrative Hearings