BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2020010050

ORDER FINDING STUDENT'S AMENDED COMPLAINT SUFFICIENT

JUNE 8, 2020

On January 2, 2020, Parents on behalf of Student filed a due process hearing request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Los Angeles Unified School District. On May 27, 2020, Student's amended complaint was deemed filed. On June 8, 2020, Los Angeles filed a notice of insufficiency as to the amended complaint.

APPLICABLE LAW

The named parties have the right to challenge the complaint's sufficiency. (20 U.S.C. § 1415(b) & (c).) 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).

The complaint is deemed sufficient unless a party notifies OAH and the other party in writing within 15 days of receiving the complaint that the party believes the complaint has not met the notice requirements. (20 U.S.C. § 1415(c)(2)(C); Ed. Code, § 56502, subd. (d)(1).)

A complaint is sufficient if it: (1) describes the problem relating to the proposed change regarding the Student's identification, evaluation, or educational placement, or providing the Student a free appropriate public education; (2) includes facts about the problem; and (3) includes a proposed resolution 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 to know how to prepare for the hearing and how to participate in resolution sessions and mediation. (See H.R.Rep. No. 108-77, 1st Sess. (2003), p. 115; Sen. Rep. No. 108-185, 1st Sess. (2003), pp. 34-35.)

The complaint provides enough information when it provides "an awareness and understanding of the issues forming the basis of the complaint." (Sen. Rep. No. 108-185, *supra*, at p. 34.) 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. (*Alexandra R. ex rel. Burke v. Brookline School Dist.* (D.N.H., Sept. 10, 2009, CIV. 06-CV-0215-JL) 2009 WL 2957991[nonpub. Opn.]; *Escambia County Bd. 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, 8:04CV2657T24EAJ) 2005 WL 2850076 [nonpub. Opn.]; but cf. *M.S.-G v. Lenape Regional High School Dist. Bd. Of Educ.* (3d Cir. 2009) 306 Fed.Appx. 772, 775 [nonpub. Opn.].) Whether the complaint is sufficient is a

matter within the sound discretion of the Administrative Law Judge. (*Assistance to States for the Educ. Of Children with Disabilities & Preschool Grants for Children with Disabilities* (Aug. 14, 2006) 71 FR 46,540-46541, 46699.)

DISCUSSION

Student's amended complaint adds a few new sentences asserting claims regarding assessments completed, and Los Angeles' January 29, 2020 offer of FAPE made, after the original complaint was filed. Los Angeles had sufficient notice of the issues and facts in Student's original complaint to participate in a mediation with Student on April 16, 2020. As to the sufficiency of the allegations carried forward into the amended complaint, which is the vast majority of the amended complaint, Los Angeles' motion is made over 15 days from its original receipt of those allegations, and while technically not untimely as to the amended pleading, appears disingenuous.

As to the added assessments, Student alleges that Parents did not timely receive an assessment plan after requesting assessment, Student was not assessed in all areas of suspected disability, and the assessments were improperly conducted. At Issue 5, Student alleges the areas of suspected disability in which Los Angeles allegedly did not assess, and a list of area of needs that Los Angeles failed to identify.

Student further alleges the areas of functioning in which goals should have been written in January 2020, and the services that Student should have been offered instead of Los Angeles finding Student ineligible. Student alleges specific services he contends should have been offered to address his areas of need, with frequency and duration, including counseling services, educational interventions, social skills interventions to address social skills deficits, speech and language services to address language needs, occupational therapy to address sensory and motor deficits, a behavior support plan to

address Student's behaviors, goals in each of these areas, and extended school year services. Student also alleges that Los Angeles failed to develop an appropriate plan to transition Student from a small private school to a large public campus, or to initiate a proceeding when Parents failed to consent to the individualized education program, or IEP. Student seeks a finding that he is eligible for special education, compensatory education for private schooling and support services, and an order of placement with the goals and support services Student contends he allegedly requires.

Student alleges similarly detailed failures to assess, to identify Student's areas of educational need, and to offer appropriate services, for the 2015-2016, 2016-2017, 2017-2018, 2018-2019, and 2019-2020 school years, at Issues 1 through 4.

Student's amended (and original) complaint may, as Los Angeles contends, read like a laundry list of procedural and substantive failures on the part of Los Angeles. However, the fact that the list is long does not mean that it is a template and not specific to this child. Los Angeles is critical of Student's insertion of 12 pages of quotes from an independent assessment into the complaint to explain Student's educational needs. Although Student's amended complaint is not an example of artful pleading, and relies heavily on a document written by a non-attorney unfamiliar with pleading requirements, buried within the dense technical jargon of the psychological assessment report are specifics regarding Student's alleged functioning deficits and areas of educational need. This information inserted into the complaint, while sloppy pleading, nonetheless puts Los Angeles on notice of the problems identified, provides adequate facts about those problems, and provides proposed resolutions to permit Los Angeles to respond and in a resolution session and mediation.

Therefore, Student's statement of claims in the amended complaint is sufficient.

ORDER

1. The amended 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.

DocuSigned by:
Alexa Hohensee
A7D463FF094544B...

Alexa Hohensee

Administrative Law Judge

Office of Administrative Hearings