BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2016100420
v.	ORDER DETERMINING SUFFICIENCY OF DUE PROCESS COMPLAINT
OAK GROVE SCHOOL DISTRICT.	

On October 06, 2016 Parents on Student's behalf filed a Due Process Hearing Request[1] (complaint) with the Office of Administrative Hearings naming Oak Grove School District. On October 21, 2016, District timely filed a Notice of Insufficiency 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. (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).

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. (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

[1] A request for a due process hearing under Education Code section 56502 is the due process complaint notice required under title 20 U.S.C. section 1415(b)(7)(A).

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 complaint identifies four problems. Problem 1, and the related proposed resolution, asks for an individualized education program team meeting at a date, time and location during the week, with all IEP team members present. Student asks for a room with no distractions and space for all team members. Problem 1 does not state an issue regarding the identification, evaluation, or educational placement of Student or a provision of FAPE to Student. It does not describe with sufficient facts what District did or did not do, and when, in violation of the IDEA, or how District's violations resulted in a denial of FAPE or deprived Parents of the opportunity to participate in a meaningful way in the development of Student's educational program. As discussed below, Student may amend his complaint if he wishes to include this claim as an issue.

Problem 2 alleges Student's last IEP meeting was on September 1, 2016, the IEP team agreed on ideas and plans but District told Parents it would not implement any of those ideas or plans until the IEP team reconvened. The proposed resolution is to hold an IEP meeting to finalize and officially sign the IEP. Problem 3 consists of one sentence, alleging that Parents want "clarity" on how District is providing resource support services to Student. The proposed resolution is that District sends Student to his resource support program as written in the IEP. Problem 4 consists of one sentence alleging Parents requested the IEP team to inform Parents whether Student's last IEP goals were met. The proposed resolution asks for more information on how District determined Student met his goal. When read together Problems 2 through 4 sufficiently allege the following issues for hearing:

1. Did District procedurally violate the IDEA resulting in a denial of FAPE and or depriving Parents of the opportunity to participate meaningfully in the development of Student's September 1, 2016 IEP, by:

a) Failing to timely conclude the September 1, 2016 IEP team meeting and offer Student a FAPE;

b) Failing to provide Parents with a sufficient explanation regarding District's proposal of resource support services, including how those services will be delivered; and

c) Failing to adequately discuss at the meeting Student's present levels of performance and the status of his IEP goals?

Student's complaint shall be limited to those issues defined above, relating to the September 1, 2016 IEP meeting up to the date Student filed his complaint. If Student intends the issues to be broader than as defined above, Student may amend his complaint.

MEDIATOR ASSISTANCE FOR NON-REPRESENTED PARENTS: A parent who is not represented by an attorney may request that OAH provide a mediator to assist the parent in identifying the issues and proposed resolutions that must be included in a complaint. (Ed. Code, § 56505.) Parents are encouraged to contact OAH for assistance if they intend to amend their due process hearing request.

ORDER

1. Student's Problem 1 of the complaint is insufficiently pled under title 20 United States Code section 1415(c)(2)(D). Student shall be permitted to file an amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II).[2] The amended complaint shall comply with the requirements of title 20 United States Code section 1415(b)(7)(A)(ii), and shall be filed not later than 14 days from the date of this order.

2. Student's Problems 2 through 4, restated as Issues 1(a)-(c), are sufficiently pled under section title 20 United States Code 1415(c)(2)(D).

3. If Student fails to file a timely amended complaint, the matter will proceed to hearing only on Issues 1(a) through (c), unless otherwise ordered.

4. All dates previously set in this matter are confirmed..

DATE: October 27, 2016

DocuSigned by:
Adrienne L. Krikorian
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ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings

[2] The filing of an amended complaint will restart the applicable timelines for a due process hearing.