BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. SADDLEBACK VALLEY UNIFIED SCHOOL DISTRICT.	OAH Case No. 2018060931 ORDER DETERMINING DUE PROCESS COMPLAINT SUFFICIENT

On June 21, 2018, Student filed a due process hearing request[1] (complaint) with the Office of Administrative Hearings naming Saddleback Valley Unified (District). On July 2, 2018, 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

The facts alleged in Student's complaint are sufficient to put District on notice of the issues forming the basis of the complaint. Student is 12 years old. Student resides with his parents in District and just completed sixth grade in a District school. Student is eligible for special education under the category of multiple disabilities, due to autism and Jacobsen syndrome. The complaint alleges claims against District within the statutory period.

The complaint contends that Student has been provided an identical and ineffective educational program year-after-year with little to no progress. The complaint also alleges that District refused to consider all areas of unique needs that would result in appropriate services for Student. The sole issue is whether District denied Student a FAPE by failing to provide appropriate assessments and an individualized education program (IEP) designed to meet his unique educational needs such that he could access an appropriate education, as required by the IDEA throughout the statutory period.

Student's proposed resolutions for the sole issue from District include: (1) an Order that District provide Student with a different and appropriate placement within the least restrictive environment (LRE), including appropriate general education (GE) and specialized academic instruction (SAI) within District's autism program; (2) arrange a visit to District's autism program for parents to observe; (3) provide individual aide support to Student by an appropriately trained aide; (4) conduct assessments in autism and visual processing; (5) conduct assessments in assistive technology (AT) and augmentative alternative communication (AAC); (6) provide an appropriate AT device and software for Student to access within the school and home settings; (7) provide applied behavior analysis (ABA) services to Student; (8) provide increased inclusion for Student; (9) provide appropriate transportation services, including transporting Student to his afterschool program location; (10) provide increased language and speech services utilizing a combination of group and individual services; (11) provide consistent and appropriate occupational therapy services according to Student's educational plan; (12) provide daily logs between school and home, consisting of a description of services, activities and progress; (13) provide reimbursement for the after-school program and aide support privately funded by parents; and (14) provide compensatory education services including, but not limited to: individual intensive academic

services, reading and writing intervention, along with applied behavioral analysis, assistive technology, occupational therapy, and language and speech services.

Student's complaint identifies the issues and adequate related facts about the problem to permit District to respond to the complaint, participate in a resolution session, mediation, and prepare for hearing.

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.

DATE: July 5, 2018

Jackie C. Dai

JACKIE C. DAI
Administrative Law Judge
Office of Administrative Hearings