BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. ANTELOPE VALLEY UNION HIGH SCHOOL DISTRICT AND SNOWLINE JOINT UNIFIED SCHOOL DISTRICT.	OAH Case No. 2017040093 ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

On June 30, 2017, Student filed a third amended Due Process Hearing Request[1] (third amended complaint) with the Office of Administrative Hearings naming Antelope Valley Union High School District and Snowline Joint Unified School District). On July 6, 2017, Antelope Valley filed a Notice of Insufficiency as to Student's third amended 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.)

[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).

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

The facts alleged in Student's third amended complaint are sufficient to put the Antelope Valley on notice of the each of the issues forming the basis of the complaint against Antelope Valley. Student's complaint identifies the issues and adequate related facts about each of the problems to permit Antelope Valley to respond to the complaint and participate in a resolution session and mediation.

Issue 1 of the third amended complaint only states allegations against Snowline and is not the subject of Antelope Valley's Notice of Insufficiency.

Regarding Issue 2 of the third amended complaint, Student adequately alleged facts to support the following claim against Antelope Valley: Did Antelope Valley deny Student a FAPE by failing since January 2, 2017, or February 8, 2017, after Student became "homeless" under the McKinney-Vento Homeless Education Assistance Act, to: a) continue to provide Student special education and related services within Antelope Valley at his school of origin; b) appoint a homeless liaison; and c) convene and IEP team meeting to determine Student's needs?

With respect to Issue 3 of the third amended complaint, Student adequately alleged facts to support the following claim against Antelope Valley: Did Antelope Valley deny Student a FAPE by failing in the April 21, 2016 and October 28, 2016 IEPs to: a) offer appropriate placement; b) offer extended school year; c) develop an individualized transition plan; d) offer appropriate related services, specifically: a one-to-one aide; behavior supports and services; counseling; educationally related mental health services; speech therapy; occupational therapy; assistive technology; transition services; social skills training; and transportation; and d) offer appropriate accommodations?

Regarding Issue 4 of the third amended complaint, Student adequately alleged facts to support the following claim against Antelope Valley: Did Antelope Valley deny Student a

FAPE by failing since April 3, 2015, and specifically in the April 21, 2016 and October 28, 2016 individualized education programs to: a) identify present levels of performance in all areas of unique need, specifically: reading; writing; math; classroom participation; fine and gross motor skills; sensory processing; attention; dyslexia; auditory processing; visual processing; pragmatic language; expressive and receptive communication; behavior including but not limited to defiance and aggression; vocational and transition issues; socialization; mental health; and adaptive skills; and b) develop appropriate goals in all the areas of unique need listed above.?

With respect to Issue 5 of the third amended complaint, Student adequately alleged facts to support the following claim against Antelope Valley: Did Antelope Valley deny Student a FAPE by failing since April 3, 2015, to assess Student in all areas of suspected disability, specifically: speech; behavior; cognitive processing; learning abilities; mental health and the need for educationally related mental health services; motor skills; sensory processing; socialization; and adaptive skills?

Concerning Issue 6 of the third amended complaint, Student adequately alleged facts to support the following claim against Antelope Valley: Did Antelope Valley deny Student a FAPE by failing to implement the March 2016 IEP from Eastside Unified School District, and the April 21, 2016 and October 28, 2016 IEPs specifically regarding accommodations, behavior supports and services, educationally related mental health services, and extended school year 2016.

Regarding Issue 7 of the third amended complaint, part (a) expressly concerns only Snowline. With respect to parts (b), (c), (d), and (e), Student adequately alleged facts to support the following claim of additional procedural violations against Antelope Valley: Did Antelope Valley deny Student a FAPE by: i) failing to provide Parents prior written notice of 1) Antelope Valley's refusal to evaluate Student in response to Parents' April 21, 2016 and October 28, 2016 requests for assessment in the areas of behavior and educationally related mental health services; 2) Antelope Valley's refusal to provide a behavior support plan as promised in the April 21, 2016 IEP; and 3) Antelope Valley's refusal to provide educationally related mental health services after Parents and Student's teacher completed and submitted referral paperwork in March and April 2016; ii) convening an IEP team meeting on October 28, 2016 without Parents; iii) failing to provide Student's educational records pursuant to Parents' April 13, 2017 written request; and iv) predetermining the placement offer of the April 21, 2016 and October 28, 2016 IEPs.

Student's third amended complaint lists many and detailed proposed resolutions for the claims Student stated against Antelope Valley.

Therefore, Student's statement of the claims and proposed resolutions against Antelope Valley is sufficient.

ORDER

1. The third 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.

DATE: July 13, 2017

DocuSigned by:
Kara Hatfield
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KARA HATFIELD
Administrative Law Judge
Office of Administrative Hearings