BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

CLOVIS UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2019041182

ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

On April 26, 2019, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Clovis Unified School District as Respondent. On September 9, 2019, OAH granted Student's motion to file a second amended complaint. On September 11, 2019, Clovis filed a Notice of Insufficiency as to the second 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).

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

Clovis asserts that it is does not have sufficient facts to prepare for hearing as to Student's issue number two because it is unable to determine which aspects of the

speech and language and psychoeducational assessments, presented at the October 23, 2018 individualized education program or IEP team meeting, that Student is challenging. Clovis contends it would be left to defend each and every aspect of those assessments at hearing which it argues is not consistent with the statutory purpose of the Individuals with Disability Education Act. Student has alleged that Clovis failed to consider and share information regarding Student being hyperlexic, that the evaluations were not comprehensive, and that all areas of disability were not assessed.

Clovis further argues that Student's issue number three fails to state how the behavior support plans and behavior goals included in the October 23, 2018 IEP are insufficient to provide a free, appropriate public education, often called a FAPE, leaving Clovis responsible for defending each and every aspect of its behavior support plans and goals. Student's complaint alleges the behavior plan and goals are "not sufficiently comprehensive or sufficiently designed to address Student's unique needs or the underlying deficit's affecting Student's behavior."

The facts alleged in Student's complaint are sufficient to put Clovis on notice of the issues forming the basis of the complaint. Here, Student's complaint identifies the issues, sufficiency of two assessments and adequacy of a behavior support plan and behavior goals, and adequate related facts about the problem to permit Clovis to respond to the complaint and participate in a resolution session and mediation. In a request for due process hearing related to a special education case, so long as Clovis has received information putting it on notice of Student's claims, the complaint is sufficient.

ORDER

1. The complaint is sufficient under title 20 United States Code section 1415(b)(7)(A)(ii).
2. The prehearing conference, and hearing dates stated in the September 11, 2019 scheduling order in this matter are confirmed.

IT IS SO ORDERED.

DATED: September 18, 2019

DocuSigned by:
Penelope Pahl
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Penelope S. Pahl
Administrative Law Judge
Office of Administrative Hearings