BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. PASADENA UNIFIED SCHOOL DISTRICT.	OAH Case No. 2017020158 ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

On February 2, 2017, Parent on behalf of Student filed a Due Process Hearing Request[1] (complaint) with the Office of Administrative Hearings naming Pasadena Unified School District. On February 17, 2017, District filed a Notice of Insufficiency as to Student's complaint.[2]

APPLICABLE LAW

The named parties to a due process hearing request have the right to challenge the sufficiency of the complaint.[3] 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

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[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).

[2] District also included in the caption that this document was also a motion to dismiss. This motion is treated only as a NOI and if District wishes to file a motion to dismiss, it needs to file such a motion separately from an NOI.

[3] 20 U.S.C. § 1415(b) & (c).

of the problem to the extent known and available to the party at the time.[4] 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.[5]

The complaint provides enough information when it provides "an awareness and understanding of the issues forming the basis of the complaint."[6] 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.[7] Whether the complaint is sufficient is a matter within the sound discretion of the Administrative Law Judge.[8]

DISCUSSION

District points to a generalized claim on page 12 of the complaint, which argues that District denied Student a FAPE and has violated Parent's rights under the IDEA, from on or about May 1, 2015 to the present. The complaint goes on to state the denial of FAPE is both procedural and substantive. Though the statements lack specificity, when read in the context of the entire document, the complaint sufficiently provides District notice of the issues forming the basis of the complaint.

The complaint alleges, among other things, that the District failed to obtain necessary educational records from the previous school district in preparation for the May 1, 2015 IEP meeting. The complaint raises concerns about the formulation and implementation of that

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[4] 20 U.S.C. § 1415(b)(7)(A)(ii)(III) & (IV).

[5] See H.R.Rep. No. 108-77, 1st Sess. (2003), p. 115; Sen. Rep. No. 108-185, 1st Sess. (2003), pp. 34-35.

[6] Sen. Rep. No. 108-185, *supra*, at p. 34.

[7] *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.].

[8] Assistance to States for the Educ. of Children with Disabilities & Preschool Grants for Children with Disabilities, 71 FR 46,540-46541, 46699 (Aug. 14, 2006).

May 1, 2015 IEP. Additionally, the complaint claims that District failed to provide prior written notice with respect to any proposal to change or maintain Student's placement, as well as a failure on the part of the District to conduct a triennial evaluation. The complaint contains enough facts relating to these and other claims to provide District with an awareness and understanding of alleged violations. In construing the pleading requirements liberally, the complaint sufficiently identifies the issues and adequate related facts about the problem to permit District to respond to the complaint and prepare for and fully participate in a resolution session and mediation.

Among Student's proposed resolutions is that District fund specified independent assessment and provide compensatory education. A complaint is required to include proposed resolutions to the problem, to the extent known and available to the party at the time. (20 U.S.C. §1415(b)(7)(A)(ii)(IV).) The proposed resolutions stated in Student's complaint are well-defined requests that meet the statutorily required standard of stating a resolution to the extent known and available to Student at the time.

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: February 21, 2017

DocuSigned by:
Rommel Cruz
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ROMMEL CRUZ
Administrative Law Judge
Office of Administrative Hearings