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.	OAH Case No. 2018090460 ORDER DETERMINING COMPLAINT SUFFICIENT

On September 13, 2018, Student filed a Due Process Hearing Request[1] (complaint) with the Office of Administrative Hearings naming Antelope Valley Union High School District. On September 27, 2018, Antelope Valley 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.)

[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 complaint are sufficient to put Antelope Valley on notice of the issues forming the basis of the complaint. Although Student's complaint does not list the individualized education program at issue with specificity, Student does describe the problem and lists facts to support the problem. Student alleges Antelope Valley denied him a FAPE by failing to implement his IEP and failing to develop an appropriate IEP. Student argues these failures are evidenced by his failing grades and low interest in attending school. Student also argues Antelope Valley was aware of his behavior issues and need for a behavior support plan however, it did not develop a behavior support plan until recently. The complaint identifies the issues and adequate related facts about the problem to permit Antelope Valley to respond to the complaint and participate in a resolution session and mediation.[2]

Therefore, Student's statement of the claim is sufficient.

Student's proposed resolutions request an appropriate behavior plan with one to one supervision, counseling, tutoring, and compensatory services for lost educational time. 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 resolution stated in Student's complaint are not well-defined; however, Studnet has met the statutorily required standard of stating a resolution to the extent known and available to him at the time.

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[2] As the individualized education programs attached to Student's complaint are not part of the pleading, but rather evidence to be introduced at hearing, Student's counsel need not attach copies of IEP's to future due process hearing requests, but simply refer to the pertinent portions of the IEP's in the factual allegations in the complaint.

ORDER

1. The complaint is deemed sufficient under title 20 United States Code section 1415(c)(2)(C) and Education Code section 56502, subdivision (d)(1).

2. All prehearing conference and hearing dates in this matter are confirmed.

DATE: October 5, 2018

DocuSigned by:
Linda Johnson
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LINDA JOHNSON
Administrative Law Judge
Office of Administrative Hearings