BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. VICTOR VALLEY UNION HIGH SCHOOL DISTRICT.	OAH Case No. 2018040006 ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

On March 27, 2018, Parent on behalf of Student filed a Due Process Hearing Request[1] (complaint) with the Office of Administrative Hearings naming Victor Valley Union High School District. On April 5, 2018, District 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,

[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).

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

District contends Student's complaint is confusing in that the complaint refers to Student as a "he" and a "she"; identified District, as well as Palmdale School District, as the school district that failed its "child find" obligation; and does not specify the date, event, or manner in which Parent allegedly requested an evaluation of Student and to convene an individualized education program team meeting due to Student's academic and behavioral concerns.

Though Student's complaint would have benefitted from a proofreading before being filed, the facts alleged in Student's complaint are sufficient to put District on notice of the issues forming the basis of the complaint. The complaint clearly identifies Student as a male and only refers to Student as a "she" once in the complaint. Clearly, this was a typographical error that does not render the complaint vague or confusing.

Additionally, the compliant clearly identifies the respondent school district. Section three of the complaint, on page two, identifies District as the school district to be named. Though the complaint erroneously mentions Palmdale School on the following page of the complaint as the school district that allegedly failed its "child find" obligation, the facts alleged in complaint details Student's academic and behavioral struggles during the 2016-2017 and 2017-2018 school years while he attended Silverado High School, a District school. It was during this period of time that Student contends District failed to assess Student for special education and related services stemming from those concerns.

Furthermore, Student's complaint alleges Parent requested District evaluate Student and convene an IEP team meeting. The complaint further claims District responded by holding a student study team meeting on February 26, 2018. A fair reading of the complaint provides a general time frame of early 2018, in which Parent allegedly requested an evaluation and an IEP team meeting. The complaint sufficiently provides District with an awareness and understanding as to the time, manner, or event in which District allegedly failed to respond approximately to Parent's request in early 2018.

The complaint contains enough facts relating to District's alleged failure to identify Student's special education needs to provide District with an awareness and understanding of the alleged violation. In construing the pleading requirements liberally, the complaint sufficiently identifies the issue and adequate related facts about the problem to permit District to respond to the complaint and to prepare for and fully participate at hearing.

Among Student's proposed resolutions, Student requests an independent psycho-educational evaluation to be publicly funded and compensatory education services to be provided by a nonpublic agency. 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 and 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. The prehearing conference and hearing dates in this matter are confirmed.

DATE: April 6, 2018

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