BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: CORONA-NORCO UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2017040873 ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT AND DENYING MOTION TO DISMISS

On April 19, 2017, Corona Norco Unified School District filed a Due Process Hearing Request[1] (complaint) with the Office of Administrative Hearings naming Parent on behalf of Student as respondent. On May 2, 2017, Student filed a Notice of Insufficiency with an alternative Motion to Dismiss as to Corona-Norco's complaint. [2]

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.)

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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] Student's motion papers were filed on May 1, 2017 after 5:00 p.m. so they are deemed filed on the next business day.

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 Corona-Norco's complaint are sufficient to put the Student on notice of the issues forming the basis of the complaint. Corona-Norco's complaint identifies the issues and adequate facts related to the problem to permit Student to respond to the complaint and participate in mediation.

Student makes a number of assertions in its notice of insufficiency/motion to dismiss that question the validity of Corona-Norco's factual allegations and Corona-Norco's ability to prove their case. These are not appropriately adjudicated as part of a notice of insufficiency or motion to dismiss. No showing was made by Student that Corona-Norco has sought relief that is outside the jurisdiction of the Office of Administrative Hearings.

ORDER

1. The complaint is sufficient under title 20 United States Code section 1415(b)(7)(A)(ii) and all issues raised fall within the jurisdiction of the Office of Administrative Hearings. The motion to dismiss is DENIED.

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

DATE: May 3, 2017

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