BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

TRACY UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021020518

ORDER DETERMINING COMPLAINT TO BE SUFFICIENT

MARCH 1, 2021

On February 12, 2021, Parent on behalf of Student filed a due process hearing request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Tracy Unified School District. On February 26, 2021, Tracy filed a notice of insufficiency as to the 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

Student alleges that he has a history of speech delay and struggles with language fluency, but during the 2019-2020 and 2020-2021 school year, Tracy did not offer

Student the language services necessary for Student to access the curriculum. Student alleges that Parents have raised concerns regarding Student's reading, writing and math skills, but Tracy has offered insufficient academic supports for Student to make appropriate progress.

Student's complaint contains seven issues. Student alleges at Issues 1a and 1d that Tracy had insufficient information and drafted inappropriate goals to identify and address Student's educational needs. He alleges at Issues 1b and 1d that Tracy failed to offer appropriate related services, particularly after the COVID-19 pandemic resulted in school closures. At Issue 1c, Student alleges that Parents were denied an opportunity to fully participate in designing Student's educational program. Student alleges at Issue 1f that Tracy failed in its duty to reevaluate Student and his program when Student was not making appropriate progress. At Issue 1g, he alleges that Tracy ignored the recommendations of its own assessors when designing Student's individualized education program.

In supporting factual allegations, Student alleges that he needs services and supports not only in language and academics, but in occupational therapy, counseling, and other undefined areas. Although Student should be prepared prior to hearing to specifically identify all areas of need in which he contends he was not served, Student's complaint identifies sufficient issues and adequate facts about the problem to permit Tracy to respond and participate in a resolution session and mediation.

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. Student seeks

independent educational evaluations, a one-to-one aide to accompany him to classes, assistive technology, and compensatory education. This is sufficient to meet the statutorily required standard regarding proposed resolutions.

Accordingly, the facts alleged in Student's complaint are sufficient.

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.

Alexa Hohensee

Alexa Hohensee
Administrative Law Judge
Office of Administrative Hearings