BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2015090062
v.	ORDER OF DETERMINATION OF SUFFICIENCY OF AMENDED DUE PROCESS COMPLAINT
MERCED CITY SCHOOL DISTRICT.	

On December 3, 2015, Student filed Petitioner's Amended Request for Mediation and Due Process Hearing[1] (amended complaint) with the Office of Administrative Hearings naming Merced City School District. On December 9, 2015, Merced City filed a Notice of Insufficiency as to Student's amended 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

Merced City's Notice of Insufficiency only challenges the sufficiency of Issue One in Student's amended complaint. Issue One alleges that Merced City's failure to provide Student's educational records within five days of Student's attorney's request made on or about November 3, 2015, violated Merced City's duty to provide Parent with Student's documentation, denied Student a FAPE, and delayed Student's filing of a due process complaint. Merced City argues that Issue One should have identified which records were omitted with more specificity and explained with greater clarity how the alleged failure to timely produce the records resulted in a denial of FAPE and delayed filing of the complaint.

The facts alleged in relation to Issue One identify the details of the request for records and the manner and timeliness of the response to the request. The facts alleged also identify that the records produced by Merced City failed to include a January 10, 2011 IEP and other types of records, including assessment plans, progress reports and discipline records. Student asserts that the failure to produce the records in their entirety impeded Student's attorney's ability to assess Student's needs and the issues and assist Parents in determining an appropriate type of placement for Student. Finally, Student asserts that the lack of detail as to Student's academic needs created by the omitted records delayed Parents' ability to seek action. Issue One contains sufficient information to put Merced City on notice of the nature of the problem, and the facts related to the problem are adequate to permit Merced City to respond to the complaint and participate in a resolution session and mediation.[2]

[2] Although Issue One is deemed sufficient, nothing precludes the Administrative Law Judge conducting the prehearing conference in this matter from further refining the issues in consultation with the parties or Merced City from raising its arguments as defenses at hearing.

ORDER

1. The amended 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: December 10, 2015

/s/

LISA LUNSFORD
Administrative Law Judge
Office of Administrative Hearings