BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: STUDENT, v. LIBERTY UNION HIGH SCHOOL DISTRICT.	OAH Case No. 2017090367 DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

On September 11, 2017, Student filed a Due Process Hearing Request[1] with the Office of Administrative Hearings, naming Liberty Union High School District. On November 8, 2017, OAH granted Student's request to amend the complaint.

On November 13, 2017, District filed a motion to dismiss the amended complaint or, in the alternative, a Notice of Insufficiency.[2] District seeks to dismiss claims that occurred prior to September 11, 2015, based upon the two-year statute of limitations.

APPLICABLE LAW

Although OAH has granted motions to dismiss allegations that are facially outside of OAH's jurisdiction, OAH will not dismiss claims that are otherwise within the jurisdiction of OAH.

The statute of limitations in California is two years, consistent with federal law. (Ed. Code, § 56505, subd. (l); see also 20 U.S.C. § 1415(f)(3)(C).) However, title 20 United States Code section 1415(f)(3)(D) and Education Code section 56505, subdivision (l), establish exceptions to the statute of limitations in cases in which the parent was prevented from filing a request for due process due to specific misrepresentations by the local educational agency that it had resolved the problem forming the basis of the complaint, or the local educational agency's withholding of information from the parent that was required

[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] If District wishes for OAH to rule on the Motion to Dismiss, District needs to file it as a separate motion and not combined with any other motion. Thus, OAH will only rule upon the Notice of Insufficiency, and not on the Motion to Dismiss.

to be provided to the parent.

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, *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's complaint identifies 10 issues against District pertaining to Student's individualized education program over several years.[3] The allegations include the dates of IEPs, the nature of Student's disabilities, the type of services in dispute, and specific procedural violations. The complaint contains sufficient facts about the stated issues to allow District to prepare for a resolution session and mediation. Therefore, Student's complaint is sufficiently pled.

[3] The complaint mistakenly numbered nine issues.

Each issue raised in this case involves Student's individualized education program and are therefore facially within the jurisdiction of OAH.

Finally, Student alleges that an exception to the two-year statute of limitations exists for this matter. Specifically, Student alleges that District withheld school records, translated documents, and information regarding Student's educational program from Student and/or Student's parent. Student asserts that District's withholding of information began during the 2009-2010 school year. Consequently, an evidentiary hearing is required to determine whether the two-year statute of limitations should be extended for this matter.

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, unless otherwise ordered.

DATE: November 14, 2017

DocuSigned by:
Paul Kamoroff
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PAUL H. KAMOROFF
Administrative Law Judge
Office of Administrative Hearings