BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. LANCASTER SCHOOL DISTRICT AND ANTELOPE VALLEY UNION HIGH SCHOOL DISTRICT.	OAH Case No. 2016070124 ORDER DENYING ANTELOPE VALLEY UNION HIGH SCHOOL DISTRICT'S NOTICE OF INSUFFICIENCY

On June 24, 2016, Student filed a filed a Due Process Hearing Request[1] (complaint) with the Office of Administrative Hearings naming Lancaster School District and Antelope Valley Union High School District. On July 1, 2016, Antelope Valley timely filed a Notice of Insufficiency as to Student's complaint against Antelope Valley, only. Student filed an opposition to the NOI on July 7, 2016. Lancaster School District did not file a challenge to the sufficiency of the complaint as to Lancaster School District. For the reasons discussed below, the complaint is sufficient as to Antelope Valley Union High School District.

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

[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).

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 two issues. The first issue is directed solely at Lancaster School District and encompasses a time period during which Student alleges he was enrolled and attended that district. Student acknowledges this in his opposition to the NOI. Antelope Valley does not specifically challenge the sufficiency of Issue 1.

Issue 2 asserts that Antelope Valley was a participant in Student's transition individualized education program meeting which was held for the purpose of transitioning him from Lancaster School District to Antelope Valley. Issue 2 claims Antelope Valley denied Student a FAPE by failing to offer Student an appropriate educational program at the transition IEP to address Student's unique needs once he enrolled at Antelope Valley.

Antelope Valley contends that the complaint is insufficient because Student has not yet enrolled at Antelope Valley, and the claims are not ripe as they relate to Antelope Valley. The complaint alleges, however, that Antelope Valley participated in the transition IEP, and it states facts supporting Student's assertions of deficiencies in the IEP adopted and offered by Antelope Valley. The validity and ripeness of the claims require findings of fact by the hearing officer and are not appropriately decided by a notice of insufficiency.

The facts alleged in Student's complaint are sufficient to put the Antelope Valley on notice of the issues forming the basis of the complaint against Antelope Valley. The complaint identifies the issues and adequate related facts about the problem to permit Antelope Valley to respond to the complaint and participate in a resolution session and mediation.

ORDER

1. The complaint is sufficient as to Antelope Valley Union High School District 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: July 07, 2016

DocuSigned by:
Adrienne L. Krikorian
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ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings