BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. SIMI VALLEY UNIFIED SCHOOL DISTRICT.	OAH Case No. 2019041201 ORDER DETERMINING SUFFICIENCY OF DUE PROCESS COMPLAINT AND DENYING MOTION TO DISMISS AND MOTION TO STRIKE WITHOUT PREJUDICE

On April 29, 2019 Parent on behalf of Student (Student) filed a Due Process Hearing Request[1] (complaint) with the Office of Administrative Hearings naming Simi Valley Unified School District as respondent. On May 10, 2019, Simi Valley filed a Notice of Insufficiency as to Student's complaint. Included in the Notice of Insufficiency was a Motion to Dismiss and a Motion to Strike.

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).

Minimal pleading standards apply to requests for due process pursuant to the Individuals with Disabilities Education Act. (*Schaffer ex rel. Schaffer v. Weast,* (2005) 546 U.S. 49, 54 [126 S.Ct. 528, 163 L.Ed.2d 387.] All that is required in a due process hearing complaint is: (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.)

[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).

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

Notice of Insufficiency

The facts alleged in Student's complaint are sufficient to put Simi Valley on notice of the issues forming the basis of the complaint. Student's complaint identifies the dates she attended Garden Grove Elementary School's special day class and the specific teacher who taught her. It identifies the school years at issue and the actions it alleges constitute a denial of a free, appropriate education. In a request for due process hearing related to a special education case, so long as Simi Valley has received information putting it on notice of Student's claims, the complaint is sufficient. Thus, Student had pled issues and adequate related facts about the problem to permit Simi Valley to respond to the complaint and participate in a resolution session and mediation.

Motion to Dismiss and Motion to Strike

OAH does not accept multiple motions filed as a single document. Therefore, Simi Valley's Motion to Dismiss and Motion to Strike will be dismissed without prejudice.

ORDER

1. Student's complaint is sufficiently pled under section title 20 United States Code 1415(c)(2)(D).

2. The case shall proceed on the prehearing conference and hearing dates

currently scheduled.

3. Simi Valley's Motion to Dismiss and Motion to Strike are dismissed without prejudice.

DATE: May 15, 2019

DocuSigned by:
Penelope S. Pahl
B3DF836E5DA94F2...

PENELOPE S. PAHL
Administrative Law Judge
Office of Administrative Hearings