BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

MT. DIABLO UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021020525

ORDER DETERMINING COMPLAINT TO BE SUFFICIENT

MARCH 2, 2021

On February 12, 2021, Parents on behalf of Student filed a due process hearing request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Mt. Diablo Unified School District. On March 1, 2021, Mt. Diablo 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 at issue 1 that Mt. Diablo is not implementing Student's current individualized education program, called an IEP. Specifically, Student alleges that she is

not receiving the required minutes of specialized academic instruction, is not enrolled in a student support class, and is not receiving the accommodations in her IEP in her Algebra class. At Issue 2, Student alleges that Parents did not receive notice of IEP team meetings in the fall and spring of the 2019-2020 school year, that they did not consent to the Spring 2020 IEP, and that Parents had to request an IEP team meeting in December 2020.

As remedies, Student requests that she receive the specialized academic instruction, support class and accommodations offered in her IEP, and that poor grades received in Algebra due to lack of accommodations be modified. Student also requests that Parents be given notice of all IEP team meetings, and that Student receive a semester of Algebra tutoring as compensatory education.

Student's complaint clearly alleges claims for the 2019-2020 and current 2020-2021 school year, contrary to Mt. Diablo's claim that the complaint is vague as to time. Although Student does not identify the date of her current IEP, she clearly contends that it is the current IEP that is not being implemented, and details specific special education and related services and accommodations that she is not receiving.

Student's complaint identifies the issues and adequate facts about the problem and proposed resolutions to permit Mt. Diablo to respond and participate in a resolution session and mediation.

Therefore, Student's statement of both claims is 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