BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

LAKE TAHOE UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2020120488

ORDER DETERMINING DUE PROCESS COMPLAINT SUFFICIENT

DECEMBER 24, 2020

On December 11, 2020, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Lake Tahoe Unified School District and Tahoe Alpine SELPA. On December 23, 2020, Lake Tahoe Unified School District and Tahoe Alpine SELPA 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

The facts alleged in the complaint are sufficient. The complaint contains facts describing the problems regarding the respondents' failure to assess Student in the area of functional behavior, accurately identify his disabilities, and offer him an appropriate educational placement in the least restrictive environment. The complaint contains facts regarding respondent's failure to offer student a behavior intervention plan, and appropriate behavior services. The complaint also alleges facts regarding inappropriate behavioral interventions respondents have used with Student. The complaint further contains facts regarding the respondents' failure to offer Student appropriate measurable goals, and accurate present levels of performance. The complaint further includes facts regarding alleged procedural violations, which impeded Parent's opportunity to meaningfully participate in individualized education program, referred to as an IEP, team meetings. The complaint also includes facts regarding the IEP team's failure to consider a continuum of placements for Student, and the team's predetermination of a placement offer prior to an IEP meeting. The complaint identifies the school years when the alleged problems occurred. The complaint further includes proposed resolutions to the problems.

The complaint provides enough information so respondents can reasonably understand the issues forming the basis of the complaint. The facts included in the complaint about the alleged problems are sufficient to permit Lake Tahoe Unified School District and Tahoe Alpine SELPA to respond and participate in a resolution session, mediation and hearing.

Therefore, Student's statement of his claims is sufficient.

ORDER

1. The complaint is sufficient under title 20 United States Code section 1415(b)(7)(A)(ii).
2. All prehearing conference, and hearing dates in this matter are confirmed.

IT IS SO ORDERED.

Christine Arden

Christine Arden

Administrative Law Judge

Office of Administrative Hearings