BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. LOS ANGELES UNIFIED SCHOOL DISTRICT, IVY BOUND CHARTER SCHOOL, AND ILEAD CHARTER SCHOOL.	OAH Case No. 2018090151 ORDER DETERMINING FIRST AMENDED COMPLAINT SUFFICIENT AS TO ILEAD

On September 6, 2018, Student filed a due process hearing request[1] (complaint) with the Office of Administrative Hearings naming Los Angeles Unified School District, Ivy Bound Academy Charter School, and ILEAD Charter School. On September 18, 2018, ILEAD filed a notice of insufficiency as to Student's complaint. On September 19, 2018, OAH issued an order determining the complaint to be insufficient as to ILEAD and permitting Student to file an amended complaint within 14 days of the order.

On September 27, 2018, Student timely filed a first amended complaint in response to OAH's order determining the complaint insufficient. On October 5, 2018, ILEAD timely filed a notice of insufficiency as to Student's first amended complaint.

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.

[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).

§ 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 is thirteen years old and attends seventh grade at Ivy Bound within Los Angeles. Student states three claims in his first amended complaint: (1) Did Los Angeles, Ivy Bound, and ILEAD fail to offer Student an appropriate educational program; (2) Are Los Angeles, Ivy Bound, and ILEAD required to provide Student with an ongoing appropriate educational program; and (3) Is Student's family entitled to reimbursement for any costs related to assessments or services over the past two years. Student's proposed resolutions include compensatory services in the form of placement at a nonpublic school for the 2018-2019 school year and reimbursement for any and all assessments and related services provided for Student since July 2016.

Student's first amended complaint included information about problems Student encountered while he attended ILEAD. Student's first amended complaint alleged problems with ILEAD's program including Student struggled academically due to the program's lack of structure and appropriate support, Student failed many of his classes, Student's class schedule constantly changed, and that these programmatic problems caused Student to spin out of control at the school. The complaint also alleged that Student was not making academic progress and was not getting his social needs met due to the relaxed nature of the school and the lack of appropriate support. Student's first amended complaint specifically alleges ILEAD failed procedurally and substantively to provide Student with a program in which he could make meaningful educational progress.

These additional factual allegations in Student's complaint are sufficient to put ILEAD on notice of the issues forming the basis of the complaint. Student's complaint identifies the issues, adequate related facts about the problem, and proposed resolutions, sufficient to permit ILEAD to respond to the complaint and participate in a resolution session and mediation. The IDEA requires only a "description of the nature of the problem," facts related to the problem and proposed resolutions to the extent known and available at the time (20 U.S.C. § 1415 (b)(7)(A)(ii)), a requirement liberally construed in light of the remedial and informal nature of the due process proceedings. Therefore, Student's complaint is sufficient.

ORDER

1. Student's first amended complaint is sufficiently pled under title 20 United States Code section 1415(b)(7)(A)(ii) as to ILEAD.

2. All mediation, prehearing conference, and hearing dates in this matter are confirmed.

DATE: October 8, 2018

DocuSigned by:
Jackie C. Dai
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JACKIE C. DAI
Administrative Law Judge
Office of Administrative Hearings