BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2018030138
v.	ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT
RIVERSIDE UNIFIED SCHOOL DISTRICT.	

On February 28, 2018, Parent on Behalf of Student filed a Due Process Hearing Request[1] (complaint) with the Office of Administrative Hearings naming Riverside Unified School District. On March 9, 2018, District filed a Notice of Insufficiency as to Student's complaint. On March 12, 2018, Student filed a response and on March 13, 2018, District filed a reply.

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 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.)

Although OAH will grant motions to dismiss allegations that are facially outside of OAH jurisdiction (e.g., civil rights claims, 504 claims, enforcement of settlement agreements, incorrect parties, etc.....), special education law does not provide for a summary judgment procedure.

DISCUSSION

Student's Issue 1 alleges District's failure to address Student's academic, behavioral, and social needs. Specifically, Student contends District failed to conduct a functional behavior assessment or develop a behavior intervention plan. Student contends District failed to identify Student's behavioral needs and needs related to autism. Though the complaint asserts facts occurring prior to February 28, 2016, it does not allege facts that specifically support extending claims beyond the two-year statute of limitations, nor does the complaint make such a request. Student's Issue 3 alleges District failed to timely file a request for due process hearing when Parent did not consent to material parts of the IEP dated May 16, 2017 and June 8, 2017, including a proposal to change Student's placement to a nonpublic school.

District challenges the sufficiency of Issues 1 and 3 of Student's complaint. District contends that Issue 1 is vague and ambiguous as it alleges facts prior to the two-year statute of limitations, does not identify the IEPs at issue, and argues District violated the IDEA by filing an injunction in state court. As to Issue 3, District argues that as a matter of law, Student's claim is improper as District had a right to seek and obtain a temporary injunction to change Student's educational placement without initiating a due process hearing under the IDEA. A school district may go to state court to obtain an injunction to change a student's educational placement. (*Honig v. Doe* (1988) 484 U.S. 305, 328 [108 S.Ct. 592].)

Student responds that his complaint meets minimal pleading requirements and provides a detailed description of the nature of the problems. Additionally, Student contends

that District is not challenging the sufficiency of Issue 3, but rather seeks a determination of the facts to argue dismissal of that issue.

In construing the complaint liberally, the facts alleged in Student's complaint are sufficient to provide District with an awareness and understanding of the issues forming the basis of the complaint. Issue 1 of the complaint sufficiently provides a description of the nature of the problem and facts related to District's alleged failure to address Student's behavioral needs and needs related to autism, as well as Student's challenges in communication and academics. A fair reading of the complaint identifies the time frame at issue, which is limited to claims occurring from February 28, 2016, two years prior to the filing of Student's complaint, to the present. The complaint identifies a number of events, from Student's California Assessment of Student Performance and Progress Spring 2016 test results, his suspensions during the 2016-2017 school year, the December 5, 2016 behavior intervention plan, the January 30, 2017 notice of suspension, and the May 16, 2017 and June 9, 2017 IEP to provide District sufficient notice as to the time frame of District's alleged failures. To the extent Issue 1 is limited to claims arising on and after February 28, 2016, Issue 1 is sufficiently pled.

Furthermore, Issue 3 of the complaint is sufficiently pled and is not facially outside of OAH jurisdiction. Though not specifically identified in the discussion under Issue 3, a reading of the entire complaint identifies the IEP at issue to be the May 16, 2017 IEP. The complaint provides District with an understanding of its alleged failure to initiate a due process hearing in a timely fashion. District's argument that the claim is inappropriate as a matter of law does not render the complaint insufficient and its argument further supports a finding that District clearly understands what Student is seeking to address in Issue 3. District's request to dismiss Issue 3 through a factual determination is akin to a motion for summary judgment, which special education law does not provide for.

Student's proposed resolutions requests independent educational evaluations and compensatory education services. A complaint is required to include proposed resolutions to the problem, to the extent known and available to the party at the time. (20 U.S.C. §1415(b)(7)(A)(ii)(IV).) The proposed resolutions stated in Student's complaint are well-defined and meet the statutorily required standard of stating a resolution to the extent known and available to Student at the time.

ORDER

1. The complaint is sufficient under title 20 United States Code section 1415(b)(7)(A)(ii).

2. The prehearing conference and hearing dates in this matter are confirmed.

DATE: March 14, 2018

DocuSigned by:
Rommel P. Cruz
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ROMMEL P. CRUZ
Administrative Law Judge
Office of Administrative Hearings