BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. MONROVIA UNIFIED SCHOOL DISTRICT.	OAH Case No. 2017080846 ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

On August 16, 2017, Student filed a due process hearing request (complaint) with the Office of Administrative Hearings naming Monrovia Unified School District.[1] On August 31, 2017, Monrovia filed a notice of insufficiency as to Student's 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. § 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

[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).

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

Monrovia argues that Student's complaint is insufficiently pled, including his statement of proposed resolutions. Student alleges one issue in his complaint: that Monrovia's current offer of supports and services is inadequate given the seriousness of his mental health issues. There is a narrative attached to the complaint that details Student's difficulties, and discusses various supports and services he has been offered in the past, including placement in a nonpublic school. A recent educationally related intensive counseling services assessment is attached, but it is unclear whether Student is requesting the all of the recommended services listed in that report, or additional services. One cannot determine from reading the complaint, what additional supports and services are being requested, and Student's proposed resolutions do not give guidance.

Student's proposed resolutions requests "personalized support/planning and case management, counseling and psychological services by qualified personnel, medical services for assessment and evaluation, parent counseling and training, rehabilitation counseling, complete high school, [and] vocational program to build further independence skills." (Capitalization eliminated.) Monrovia's most recent offer included 80 minutes of counseling weekly for Student, 30 minutes of group counseling weekly, 240 minutes of counseling monthly for Parent, social worker services for 120 minutes monthly, and behavioral instructional aide for 360 minutes weekly. Student has not articulated why these supports and services are not adequate.

Student's complaint provides a description of his problem and some of the facts relating to the problem, but it is not possible to determine what Student finds inadequate about the supports and services currently being offered. It does not provide Monrovia with the required notice that would enable it to prepare and participate in a resolution session, mediation and due process hearing. Accordingly, Student's complaint is insufficiently pled.

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 resolution stated in Student's complaint is not well-defined. However, Student has

met the statutorily required standard of stating a resolution to the extent known and available to him at the time.

A parent who is not represented by an attorney may request that OAH provide a mediator to assist the parent in identifying the issues and proposed resolutions that must be included in a complaint. (Ed. Code, § 56505.) Parents are encouraged to contact OAH at (916) 263-0880 for assistance if they intend to amend their due process hearing request. There is no charge for this service.

ORDER

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

2. Student shall be permitted to file an amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II).[2]

3. The amended complaint shall comply with the requirements of title 20 U.S.C. section 1415(b)(7)(A)(ii), and shall be filed not later than 14 days from the date of this order.

4. If Student fails to file a timely amended complaint, the complaint will be dismissed.

5. All dates previously set in this matter are vacated.

DATE: September 5, 2017

DocuSigned by:
Rebecca Freie
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REBECCA FREIE
Administrative Law Judge
Office of Administrative Hearings

[2] The filing of an amended complaint will restart the applicable timelines for a due process hearing.