BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENTS ON BEHALF OF STUDENT, v. PLACER HILLS UNION SCHOOL DISTRICT.	OAH CASE NO. 2013060210 ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

On May 29, 2013, Parents on behalf of Student (Student) filed a Due Process Hearing Request[1] (complaint) naming the Placer Hills Union School District (District).

On June 12, 2013, the District filed a Notice of Insufficiency (NOI) 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.[2] 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 (FAPE) 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.[3] These requirements prevent vague and confusing complaints, and promote fairness by providing the

[1] A request for a due process hearing under Education Code section 56502 is the due process complaint notice required under Title 20 United States Code section 1415(b)(7)(A).

[2] 20 U.S.C. § 1415(b) & (c).

[3] 20 U.S.C. § 1415(b)(7)(A)(ii)(III) & (IV).

named parties with sufficient information to know how to prepare for the hearing and how to participate in resolution sessions and mediation.[4]

The complaint provides enough information when it provides "an awareness and understanding of the issues forming the basis of the complaint."[5] 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.[6] Whether the complaint is sufficient is a matter within the sound discretion of the Administrative Law Judge.[7]

DISCUSSION

The facts alleged in Student's complaint are sufficient to put the District on notice of the issues forming the basis of the complaint. Student's complaint identifies the issues and adequate related facts about the problem to permit the District to respond to the complaint and participate in a resolution session and mediation.

The District asserts that Student's complaint contains vague and redundant allegations coupled with restatements of the law and conclusory allegations. The District's assertion is not without merit. Rather than provide a clear and concise statement of issues and facts, Student's complaint is convoluted and difficult to comprehend. Nonetheless, contained within this complaint lies various concrete issues, facts, and proposed resolutions.

Student has identified 15 issues with adequate facts to support these issues.[8] These claims include that the District denied Student a FAPE during the 2011-2012 and 2012-2013

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[4] See, H.R.Rep. No. 108-77, 1st Sess. (2003), p. 115; Sen. Rep. No. 108-185, 1st Sess. (2003), pp. 34-35.

[5] Sen. Rep. No. 108-185, *supra*, at p. 34.

[6] *Alexandra R. v. Brookline School Dist*. (D.N.H., Sept. 10, 2009, No. 06-cv-0215-JL) 2009 WL 2957991 at p.3 [nonpub. opn.]; *Escambia County Board 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, No. 8:04CV2657T24EAJ) 2005 WL 2850076 at p. 3[nonpub. opn.] ; but cf. *M.S.-G. v. Lenape Regional High School Dist.* (3d Cir. 2009) 306 Fed.Appx. 772, at p. 3[nonpub. opn.].

[7] Assistance to States for the Education of Children With Disabilities and Preschool Grants for Children With Disabilities, 71 Fed.Reg. 46540-46541, 46699 (Aug. 14, 2006).

[8] The undersigned ALJ has renumbered and reconfigured the issues so that they are comprehendible.

school years by (1) failing to provide Student an audiological assessment; (2) failing to provide Student related services in the area of deaf and hard-of-hearing (DHH); (3) failing to include appropriate personnel at individualized education program (IEP) meetings, including DHH experts and an audiologist; (4) failing to assess Student in the area of DHH; (5) Failing to assess Student in the area of Attention Deficit Disorder (ADD); (6) predetermining Student's IEP's; (7) failing to implement Student's IEP's; (8) failing to provide goals in the area of DHH; (9) failing to provide present levels of performance in the IEP's; (10) failing to modify, as necessary, Student's IEP's; (11) failing to provide teachers and staff who are qualified to educate Student in the area of DHH; (12) failing to provide related services in the least restrictive environment; (13) failing to provide an appropriate educational placement; (14) seriously infringing upon Parents' rights to participate in the IEP process by ignoring their requests at IEP meetings, and; (15) changing Student's area of special education eligibility, from DHH to Specific Learning Disability, without parental consent.

Student requests an IEP meeting, various assessments, compensatory education and reimbursement for educational expenses.

Therefore, Student's statement of the 15 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.

Dated: June 13, 2013

/s/

PAUL H. KAMOROFF
Administrative Law Judge
Office of Administrative Hearings