BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. SANTA ANA UNIFIED SCHOOL DISTRICT.	OAH Case No. 2019050162 ORDER DETERMINING DUE PROCESS COMPLAINT SUFFICIENT AND DISMISSING INDIVIDUAL PARTIES

On May 02, 2019 Parent on behalf of Student filed a Due Process Hearing Request[1] (complaint) with the Office of Administrative Hearings naming Santa Ana Unified School District and two individual employees. On May 15, 2019, Santa Ana Unified filed a Notice of Insufficiency as to Student's complaint and moved to dismiss the two individuals.

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 individuals with disabilities act 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.) Congress has legislated IDEA due process hearing procedures by "impos[ing] minimal pleading standards." *Schaffer ex rel. Schaffer v. Weast,* 546 U.S. 49, 126 S.Ct. 528, 532, 163 L.Ed.2d 387 (2005); See also *Escambia, supra,* at 1260.

The procedural safeguards of the IDEA provide a parent of a child with a disability the right to file a request for due process hearing against a public agency alleging a violation of the IDEA or state special education law. (20 U.S.C. § 1415(b)(6); Ed. Code, § 56501.) The California Education Code and Code of Federal Regulations define a public agency as a school district or other local educational agency that provides special education or related services to individuals with exceptional needs. (34 C.F.R. § 300.33; Ed. Code, § 56028.5.) Generally, the school district in which a parent resides is responsible for providing special education and related services to students with disabilities. (Ed. Code, § 48200.)

DISCUSSION

Sufficiency of Complaint

Student alleges two problems: That her teachers do not have time to answer Parent's questions and concerns; and, Student is not improving in math. Student requests better communications with Santa Ana Unified and a one-on-one tutor for math. Under liberal, minimal pleading standards, the facts alleged in Student's complaint are sufficient to put Santa Ana Unified on notice of the issues forming the basis of the complaint. Although lacking in detail, Student's complaint adequately identifies the issues and related facts about the problems sufficient enough to permit Santa Ana Unified to respond to the complaint and participate in a resolution session and mediation and prepare for hearing. Therefore, Student's complaint is sufficient.

Motion to Dismiss

Student resides within Santa Ana Unified's boundaries, which is a public agency as defined by the authority above. Santa Ana Unified is the proper party. Student has also named individual Santa Ana Unified employees. These individuals are neither "public agencies," local education agencies, nor are they personally or individually responsible for

providing Student with special education and related services. Accordingly, the individual employees are dismissed as parties to Student's complaint.

ORDER

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

2. Darek Jaronczyk and Peggy Stratford are dismissed from Student's complaint.

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

DATE: May 20, 2019

DocuSigned by:

BRIAN H. KRIKORIAN
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Administrative Law Judge
Office of Administrative Hearings