BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. MORENO VALLEY UNIFIED SCHOOL DISTRICT AND CALIFORNIA SCHOOL FOR THE DEAF, RIVERSIDE.	OAH Case No. 2017050758 ORDER OF DETERMINATION OF INSUFFICIENCY OF DUE PROCESS COMPLAINT; DENYING MOTION TO CONSOLIDATE

On December 28, 2016, Student filed with the Office of Administrative Hearings a Request for Due Process Hearing in OAH case number 2017010036, naming Moreno Valley Unified School District and California School for the Deaf. On January 31, 2017, Student filed a second Request for Due Process Hearing in OAH case number 2017020619, naming Moreno Valley and School for the Deaf. On March 8, 2017, OAH granted Student's motion to consolidate those cases (Student's Cases).

On April 28, 2017, Moreno Valley and School for the Deaf filed with OAH a Request for Due Process Hearing in OAH case number 2017050017, naming Student (District's Case). On May 10, 2017, OAH granted Moreno Valley and School for the Deaf's motion to consolidate Student's Cases and District's Case (Consolidated Cases).

On May 16, 2017, Student filed with OAH a third Request for Due Process Hearing in OAH case number 2017050758, naming Moreno Valley and School for the Deaf (Student's Third Case), and a motion to consolidate her third case with the Consolidated Cases.

On May 17, 2017, Moreno Valley and School for the Deaf jointly submitted a notice of insufficiency.

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.) 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 no statute or regulation specifically provides a standard to be applied in deciding a motion to consolidate special education cases, OAH will generally consolidate matters that involve: a common question of law and/or fact; the same parties; and when consolidation of the matters furthers the interests of judicial economy by saving time or preventing inconsistent rulings. (See Gov. Code, § 11507.3, subd. (a) [administrative proceedings may be consolidated if they involve a common question of law or fact]; Code of Civ. Proc., § 1048, subd. (a) [same applies to civil cases].)

DISCUSSION

Student's Third Case alleges two claims. Student first alleges that Moreno Valley and School for the Deaf denied her a free appropriate public education by offering her a transition plan based upon an inappropriate transition assessment. Secondly, Student alleges that her claims in the Consolidated Cases should be extended past the statutory two year statute of limitations.

Student's first claim is almost identical to her claim in the Consolidated Cases that Moreno Valley and School for the Deaf denied her a FAPE by failing to appropriately assess her in the area of transition. Student's second claim is insufficiently pled because it requires an examination of claims alleged in the Consolidated Cases.

Student's Third Case and the Consolidated Cases are redundant and it is unclear why Student has filed another complaint against the same respondents. Rather than consolidating redundant matters, Student should amend her complaint for the Consolidated Cases to clearly delineate all of her issues, and dismiss her Third Case to avoid duplicity of complaints.

ORDER

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

2. Student shall be permitted to file an amended complaint as Student's Third Case under title 20 United States Code section 1415(c)(2)(E)(i)(II).[1]

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 for OAH case number 2017050758 (Student's Third Case) will be dismissed.

5. All dates previously set in OAH case number 2017050758 (Student's Third Case) are vacated.

6. Student's motion to consolidate is denied.

7. All dates set for OAH case numbers 2017010036, 2017020619 and 2017050017 (Consolidated Cases) are confirmed unless otherwise ordered.

DATE: May 18, 2017

DocuSigned by:
Paul H. Kamoroff
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PAUL H. KAMOROFF
Administrative Law Judge
Office of Administrative Hearings

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