BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2019050049
v.	
BEAUMONT UNIFIED SCHOOL DISTRICT AND HEMET UNIFIED SCHOOL DISTRICT.	ORDER DETERMINING COMPLAINT SUFFICIENT AS TO HEMMET UNIFIED SCHOOL DISTRICT

On May 1, 2019, Student filed a Due Process Hearing Request[1] (complaint) with the Office of Administrative Hearings naming Beaumont Unified School District and Hemet Unified School District. On May 2, 2019, Hemet 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.)

[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.)

DISCUSSION

The facts alleged in Student's complaint, reading the complaint in whole, are sufficient to put Hemet on notice of the issues forming the basis of the complaint. Although Student's complaint contains typos and track changes, it identifies the issues and adequate related facts about the problem to permit Hemet to respond to the complaint and participate in a resolution session and mediation.

Student identifies three issues, the first is whether Hemet denied Student a FAPE by failing to comprehensively assess him in all suspected areas of disability and to appropriately address his disability related needs. Hemet argues this is insufficient because Student failed to allege any facts as to how Hemet failed to appropriately assess Student. Student does allege facts regarding Hemet's failure to assess, specifically that Hemet did not conduct assessments and that Hemet failed to provide aide support for Student. These facts are adequate to allow Hemet to respond to the issue and participate in a resolution session and mediation.

Student's second issue alleges Hemet denied Student a FAPE by failing to tailor an appropriate educational program to meet his unique and individual needs. Hemet argues the factual allegations are confusing because Student mentions that Springs Charter School was serving Student at the time. Although Student does allege facts regarding possible enrollment in Springs Charter School, Student also alleges Hemet refused to admit him until February 2019, and once it did admit him it failed to implement his IEP, failed to provide him with transportation, and failed to properly assess his autism and behavioral needs. These facts are adequate to allow Hemet to respond to the issue and participate in a resolution session and mediation.

Student's third issue alleges Hemet denied Student a FAPE by failing to properly review and revise his IEP. Hemet argues this is insufficient because there are no factual allegations as to why a review of Student's IEP was warranted and when such a review

should have occurred. Student alleges he matriculated to high school at Hemet from Beaumont at the beginning of the 2018-2019 school year and Hemet failed to properly review and revise his IEP when he matriculated to high school. Student does allege why an IEP team meeting was warranted, that he matriculated to high school, and when it should have happened, at the beginning of the 2018-2019 school year. These facts are adequate to allow Hemet to respond to the issue and participate in a resolution session and mediation.

Therefore, Student's statement of the three claims is sufficient.

Student's proposed resolutions request independent educational evaluations, compensatory education, and placement. 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. Student has met the statutorily required standard of stating a resolution to the extent known and available to him at the time.

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.

DATE: May 2, 2019

DocuSigned by:
Linda Johnson
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LINDA JOHNSON
Administrative Law Judge
Office of Administrative Hearings