BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. SOLANO COUNTY OFFICE OF EDUCATION.	OAH Case No. 2016050225 ORDER DETERMINING STUDENT'S AMENDED COMPLAINT SUFFICIENT

On June 16, 2016, Student timely filed an amended Due Process Hearing Request[1] (Amended Complaint) with the Office of Administrative Hearings naming Solano County Office of Education. On June 30, 2016, Solano County Office of Education timely filed a Notice of Insufficiency as to Student's Amended 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,

[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).

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 the Amended Complaint are sufficient to put the Solano County Office of Education on notice of the issues forming the basis of the complaint. Student alleges a number of procedural and substantive violations of Student's right to a free appropriate public education. The issues are designated "A" through "K" and include, among other things, failing to develop appropriate American Sign Language goals, provide a one to one aide, provide appropriate Deaf/Hard of Hearing placement, timely notify parents of changes in staffing, provide appropriate classroom work, include necessary members in IEP team meetings, and allow Parents' to participate in educational decision making. The allegations in the Amended Complaint include the dates of events, the names of individuals involved, and describe documents related to the issues. The amended complaint states a proposed resolution for each issue. Proposed resolutions include, among other things, provision of a one to one aide, timely notice to Parents of events affecting Student, classroom accommodations for Student, better communication between school and Parents, provide an audiologist to assist Student with hearing aides during school hours, include appropriate goals stated in Student's IEP, and allow Parents to be more directly involved in Student's education.

The facts alleged in Student's complaint are sufficient to put Solano County Office of Education on notice of the issues forming the basis of the Amended Complaint. Student's Amended Complaint identifies the issues and adequate related facts about the problem to permit Solano County Office of Education to respond to the Amended Complaint and participate in a resolution session, mediation and prepare for hearing.

ORDER

1. The Amended 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: July 05, 2016

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Marian H. Tully
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MARIAN H. TULLY
Administrative Law Judge
Office of Administrative Hearings