BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. PALM SPRINGS UNIFIED SCHOOL DISTRICT, and RIVERSIDE COUNTY SPECIAL EDUCATION LOCAL PLAN AREA.	OAH Case No. 2018010104 ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

On January 2, 2018, Student filed a due process hearing request[1] (complaint) with the Office of Administrative Hearings naming Palm Springs Unified School District and Riverside County Special Education Local Plan Area. On February 5, 2018, Palm Springs 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).

The complaint is deemed sufficient unless a party notifies the Office of Administrative Hearings and the other party in writing within 15 days of receiving the complaint that the party believes the complaint has not met the notice requirements. (20 U.S.C. § 1415(c)(2)(C); Ed. Code, § 56502, subd. (d)(1).)

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.

[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).

§ 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 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

Palm Springs claims that it did not receive Student's complaint until "on or about January 23, 2018," although Student signed a certificate of service filed with the complaint on January 2, 2018, certifying that Palm Springs's Special Education Department was served with the complaint via email. Based on this information, it is uncertain as to whether Palm Spring's notice of insufficiency was timely filed. However, for purposes of this NOI as discussed below, an independent review of the complaint results in a determination that the complaint is sufficiently pled, regardless of whether or not the notice was timely filed.

Palm Springs first argues that the complaint is insufficient because it is vague. It contends the complaint does not contain specific issues for hearing. Student completed the OAH complaint form only in respect to the basic identifying information on the first and second page of the form, and then Student attached a complaint it filed with the California Department of Education, pursuant to the Uniform Complaint Procedure. (5 Cal. Code Regs. §4600 et seq.) That complaint is a Department of Education form completed by Student, as well as a seven page typed narrative. Two sections on the form have been highlighted on the page titled "Helpful Hints When Requesting Direct State Intervention." Student has highlighted a section concerning failure to implement a student's individualized education program, and a second section concerning failure to hold an IEP team meeting within required timelines. The seven page typed narrative then recites facts that, if found true, would support these contentions. The facts alleged in Student's complaint are sufficient to put Palm Springs on notice of the issues forming the basis of the complaint, i.e., that Palm Springs failed to implement Student's IEP during the time period at issue, and it failed to

timely convene one or more IEP team meetings. Student's complaint identifies the issues and adequate related facts about the problem to permit Palm Springs to respond to the complaint and participate in a resolution session and mediation. Therefore, Student's complaint is sufficiently pled.

Palm Springs also argues that Student's complaint should be barred pursuant to the doctrines of collateral estoppel, res judicata, issue preclusion, and claim preclusion. This is because, it claims, the Department of Education conducted and completed an investigation of the complaint filed by Student in 2017, and found Palm Springs compliant with special education law. In essence, Palm Springs is making a motion for summary judgment asking OAH to dismiss the complaint on these grounds. However, there is no summary judgment process pursuant to the IDEA before a due process hearing has been conducted. In addition, the uniform complaint procedure at title 5, California Code of Regulations, section 4600 et seq. is a distinctly different dispute resolution process than the special education due process hearing procedure pursuant to title 5, California Code of Regulations section 3080, et seq. An OAH decision cannot be appealed via the uniform complaint procedure, nor can the Department of Education investigate a claim that is currently the subject of a due process complaint filed with OAH. (300.152 C.C.R., subd. (c).) Therefore, Palm Springs has failed to establish that the complaint is insufficiently pled based on the doctrines of collateral estoppel, res judicata, issue preclusion, and claim preclusion.

ORDER

1. The complaint is deemed sufficient under title 20 United States Code section 1415(c)(2)(C) and Education Code section 56502, subdivision (d)(1).

2. The prehearing conference and hearing dates in this matter are confirmed.

DATE: February 6, 2018

DocuSigned by:
Rebecca Freie
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REBECCA FREIE
Administrative Law Judge
Office of Administrative Hearings