BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

ANAHEIM ELEMENTARY SCHOOL DISTRICT.

OAH CASE NUMBER 2020120264

ORDER DETERMINING STUDENT'S COMPLAINT SUFFICIENTLY PLED

DECEMBER 18, 2020

On December 7, 2020, Parent on behalf of Student filed a due process hearing request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Anaheim Elementary School District. On December 14, 2020, Anaheim filed a motion to dismiss Issues 2 and 5, and a notice of insufficiency as to the Issues 1, 2, 3 and 4 of the complaint.

OAH requires individual motions to be filed separately. Anaheim's notice of insufficiency will be ruled upon. The motion to dismiss will not. Anaheim may refile the motion to dismiss as a separate motion if it seeks a ruling on that motion.

APPLICABLE LAW

The named parties have the right to challenge the complaint's sufficiency. (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: (1) describes the problem relating to the proposed change regarding the Student's identification, evaluation, or educational placement, or providing the Student a free appropriate public education, called a FAPE; (2) includes facts about the problem; and (3) includes a proposed resolution 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 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.) 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 are sufficient. Student's complaint identifies the issues and adequate facts about the problem to permit Anaheim to respond and participate in a resolution session and mediation.

Issue 1, called Complaint One in Student's complaint, alleges that despite Parent's correspondence to Anaheim regarding Parent's preferred placement, including doctor's notes, Anaheim held IEP team meetings without Parent's participation and changed Student's school of attendance without Parent's consent. As a remedy, Student seeks to be placed at his previous school in Anaheim. Student's complaint provides sufficient dates to identify correspondence exchanges and changes in placement. Student does not allege all dates of the IEP team meetings, but they were allegedly held without his participation and Anaheim has refused to provide complete records to Student, it is enough that Student identifies the dates of correspondence regarding the changes in placement. The alleged facts are sufficient to place Anaheim on notice of the actions or inactions upon which the claim at Issue 1 is based.

Issue 2 alleges that from September 2020 through December 2020, Anaheim has held IEP team meetings without Parent's participation to authorize assessments of Student, conducted a virtual speech assessment, failed to respond to Parent's request for a meeting to provide Student with 504 accommodations pending completion of the assessments, and disregarded Student's privacy rights by marking Student absent without excuse when Parent provided doctor's letters for all absences. As a remedy, Student seeks to have his attendance record corrected to indicate excused absences, and an order that Anaheim make up services missed when Student was at medical appointments.

As to Issue 3, Student's complaint alleges that in October 2020, Anaheim held an IEP team meeting to discuss accommodations recommended by Student's doctor without Parent participation. Student seeks an order that Anaheim may not hold further IEP team meetings without Parent in attendance.

Issue 4 alleges that parent requested a copy of Student's educational records in October 2020, particularly requesting IEPs and the results of any assessments to date, but Anaheim has refused to release partial assessment results. Student requests that Anaheim be ordered to provide such records as it has, regardless of whether assessments are complete.

Student's complaint provides an awareness and understanding of the issues forming the basis of Issues 1, 2, 3 and 4 of the complaint. Therefore, Student's statement of these claims is sufficient.

ORDER

1. Issues 1, 2, 3 and 4 of Student's complaint are 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.

Alexa Hohensee
Alexa Hohensee (Dec 18, 2020 15:42 PST)

Alexa Hohensee
Administrative Law Judge
Office of Administrative Hearings