BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. HEMET UNIFIED SCHOOL DISTRICT.	OAH Case No. 2018100712 ORDER DETERMINING DUE PROCESS COMPLAINT SUFFICIENT

On October 12, 2018, Student filed a Request for Due Process Hearing with the Office of Administrative Hearings, naming Hemet Unified School District. On October 17, 2018, Hemet filed a Notice of Insufficiency as to Student's complaint, and specifically as to Issue One of the 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, *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

Student's complaint alleges two issues. Issue One is "whether District denied Student a FAPE by failing to provide an appropriate individualized education program (IEP) designed to meet his unique educational needs such that he could access an appropriate education, as required by the IDEA throughout the statutory period." Issue Two is "whether Student is entitled to an independent educational evaluation (IEE) in the area of psychoeducation at District's expense." Hemet specifically challenges the sufficiency of Issue One.

The complaint includes several proposed resolutions to the issues, and a statement of law and facts that span from Student's birth through the 2017-2018 school year. Student alleges that during the 2016-2017 school year, Hemet should have conducted an assistive technology evaluation, and included accommodations and goals in his February 24, 2017 IEP to address deficits in grammar, punctuation, and spelling. During the 2017-2018 school year, Student alleges Hemet's April 2018 psychoeducational evaluation failed to assess Student in all areas of suspected disability, including executive functioning, cognition, language, and fine motor skills. Student also alleges Hemet decreased Student's specialized academic instruction at his April 13, 2018 IEP, from 1,180 minutes a week to 988 minutes a week, despite the fact Student was performing below grade level. Also at this IEP, Student alleges Hemet did not draft goals in all areas of need.

Hemet argues Issue One of the complaint is too broad and fails to put Hemet on notice of how Student is alleging it denied him a FAPE. While Student could have been more specific as to Issue One, the complaint as a whole meets the sufficiency requirements set forth under the IDEA. The complaint includes the nature of the problems, facts related to the problems, and proposed resolutions. Moreover, the facts specifically identify one assessment and two IEP's Student contends were inappropriate. The complaint provides Hemet with sufficient information to respond to the complaint, prepare for and participate in a resolution session, mediation, and due process hearing.

Therefore, Student's complaint is sufficient.

ORDER

1. The complaint is sufficient under title 20 United States Code section 1415(b)(7)(A).

2. All dates in this matter remain as scheduled.

DATE: October 18, 2018

DocuSigned by:
Tara Doss
0D223C0D8032412...

TARA DOSS
Administrative Law Judge
Office of Administrative Hearings