BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. ROSEVILLE JOINT UNION HIGH SCHOOL DISTRICT AND PLACER COUNTY OFFICE OF EDUCATION.	OAH Case No. 2017070292 ORDER DETERMINING ISSUE 1 OF STUDENT'S COMPLAINT TO BE INSUFFICIENT AS TO PLACER COUNTY OFFICE OF EDUCATION

On July 10, 2017, Parent on Behalf of Student filed a Due Process Hearing Request[1] (complaint) with the Office of Administrative Hearings naming the Roseville Joint Union High School District and the Placer County Office of Education. On July 20, 2017, Placer County timely filed a Notice of Insufficiency solely as to Issue 1 of 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

Student's complaint alleges five claims. In Issues 1, 4, and 5, Student contends that Placer County denied him a free appropriate public education. Placer County argues that Student's complaint is insufficient only as to Issue 1 insomuch as Student fails to include any facts supporting his allegations as the issue pertains to Placer County.

In Issue 1, Student alleges that Roseville and Placer County denied him a FAPE by failing to offer or provide him with an appropriate placement to meet his unique needs in the 2015-2016 school year. Student's extensive factual information in the pages proceeding the delineation of Issue 1, as well as facts contained in the paragraphs following Issue 1 describe in detail facts relating to Roseville. However, there are no facts relating to any responsibility or involvement Placer County allegedly had in regard to Student's education for the 2015-2016 school year. Without such information, the complaint fails to provide Placer County with the ability to defend against the allegations made in Issue 1 or to viably participate in resolution or mediation sessions. For these reasons, Issue 1 is insufficient as to Placer County as presently pled.

ORDER

1. Issues 4, and 5 of Student's complaint are sufficiently pled as they relate to Placer County under title 20 U.S.C. section 1415(b)(7)(A)(ii).

2. Issue 1 of Student's complaint is insufficiently pled as it relates to Placer County under title 20 United States Code section 1415(c)(2)(D).

3. Student shall be permitted to file an amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II).[2]

4. The amended complaint shall comply with the requirements of title 20 U.S.C. section 1415(b)(7)(A)(ii), and shall be filed not later than 14 days from the date of this order.

5. If Student fails to file a timely amended complaint, the hearing shall proceed as to Placer County only as to Issues 4 and 5 of Student's complaint.

DATE: July 24, 2017

DocuSigned by:
Darrell Lepkowsky
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DARRELL LEPKOWSKY
Administrative Law Judge
Office of Administrative Hearings

[2] The filing of an amended complaint will restart the applicable timelines for a due process hearing.