BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENTS ON BEHALF OF STUDENT, v. COLTON JOINT UNIFIED SCHOOL DISTRICT.	OAH Case No. 2017060750 ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

On June 15, 2017, Parents on behalf of Student filed a Due Process Hearing Request[1] (complaint) with the Office of Administrative Hearings naming Colton Joint Unified School District. On June 30, 2017, District timely filed a Notice of Insufficiency as to Student's complaint.[2]

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).

[2] District concurrently filed a motion to dismiss which will be addressed in a separate order. District is advised in the future to file these as separate motions.

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

District contends that Student's complaint is insufficiently pled as it fails to provide the relevant time frame in which District allegedly failed to provide a free appropriate public education to Student. Additionally, District argues that the compliant is vague and confusing, arguing that the complaint's presentation of facts and arguments prevents District from grasping or understanding Student's issues. Furthermore, District challenges the sufficiency of the complaint's proposed resolutions, arguing the lack of clarity in the specific relief Student is seeking.

Student's complaint provides facts, pled with sufficient clarity, to provide District with an awareness and understanding as to the issues forming the basis of the complaint. Student contends District failed to provide Student a FAPE for the past three school years. Student's contentions, among other claims, are District's alleged failure to appropriately assess Student is all areas of suspected disability, to timely assess Student, to timely convene an individual education program team meeting, to properly report progress on IEP goals, to offer appropriate IEP goals, to appropriately respond to Student's request for a one-on-one aide, to appropriately respond to Student's request for independent educational evaluations in the areas of occupational therapy and speech and language therapy, and predetermination. The complaint discusses in detail the various IEP team meetings of concern, the communications between Parents and District regarding assessments, and the concerns Parents expressed with respect to the services and goals in Student's IEPs. In construing the pleading requirements liberally, the complaint sufficiently identifies the issues and adequate related facts about the problem to permit District to respond to the complaint and to prepare for and fully participate in mediation.

Among Student's proposed resolutions are for District to provide compensatory education and to reimburse Student for tuition and enrollment fees, and any other costs associated with Student attending an appropriate private or nonpublic school for the 2017-

2018 school year. A complaint is required to include proposed resolutions to the problem, to the extent known and available to the party at the time. (20 U.S.C. §1415(b)(7)(A)(ii)(IV).) The proposed resolutions stated in Student's complaint are sufficiently defined requests and meet the statutorily required standard of stating a resolution to the extent known and available to Student at the time.

ORDER

1. The 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 6, 2017

DocuSigned by:
Rommel P. Cruz
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ROMMEL P. CRUZ
Administrative Law Judge
Office of Administrative Hearings