BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENTS ON BEHALF OF STUDENT, v. WHITTIER UNION HIGH SCHOOL DISTRICT AND LOS ANGELES COUNTY OFFICE OF EDUCATION.	OAH Case No. 2017100829 ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

On October 17, 2017, Parents on behalf of Student filed a Due Process Hearing Request[1] (complaint) with the Office of Administrative Hearings naming Whittier Union High School District and Los Angeles County Office of Education. On October 27, 2017, County timely 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).

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 that County failed to assess Student when he entered Juvenile Court School in August 24, 2017. Student contends that District improperly exited Student from special education in February 2, 2017, despite failing three courses in the fall of 2016, and being significantly behind in credits. The complaint asserts that District erroneously determined that Student did not meet special education eligibility requirements for Specific Learning Disability or Other Health Impairment. Student contends that County should have suspected Student to be in need special education when County received Student's records. Therefore, Student argues that County had a duty to assess Student for special education and related services when Student entered Juvenile Court School.

County contends the compliant fails to provide facts in support of Student's contention that County should have suspected a disability and assessed Student for special education services. County argues the complaint does not contain facts indicating that an assessment was ever requested during Student's time in Juvenile Court School, that Student's parents ever expressed concern to County regarding his need for special education services, or any other facts that would indicate a need for assessment.

Student contends that his records, when received by County, should have led County to suspect Student may again require special education services while in Juvenile Court School, especially in light of his academic struggles as recently as Fall 2016. The complaint contains enough facts relating to the issues of an alleged failure to assess Student for special education and related services to provide County with an awareness and understanding of the alleged violation. In construing the pleading requirements liberally, the complaint sufficiently identifies the issue and adequate related facts about the problem to permit County to respond to the complaint and to prepare for and fully participate in mediation and a due process hearing.

Student's proposed resolution as it relates to County is for Student to be placed in an appropriate educational setting which may include a residential treatment center. 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 resolution stated in Student's complaint is a well-defined request and meets 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: October 31, 2017

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