BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENTS ON BEHALF OF STUDENT, v. SANTA MONICA-MALIBU UNIFIED SCHOOL DISTRICT.	OAH CASE NO. 2013080588 ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

On August 14, 2013 Parents on behalf of Student (Student) filed with the Office of Administrative Hearings (OAH) a 22 page Due Process Hearing Request[1] (complaint) naming the Santa Monica-Malibu Unified School District (District) as respondent. The complaint contains 22 pages and five issues. Student alleges that the District has deprived Student of a free appropriate public education (FAPE), during school years 2011-2012 and 2012-2013, procedurally and substantively (1) by failing to provide Student with a placement in the least restrictive environment with an appropriate level of behavior intervention services; (2) failing to provide an appropriate level of services in the areas of behavior, academics, self-help, speech and language, , and social needs; (3) failed to conduct a Functional Analysis Assessment and adopt an appropriate Behavior Intervention Plan; (4) failing to provide Student's parents (Parents) with a complete copy of Student's pupil records; and (5) failing to inform Parents of the array of special education services available.

On August 26, 2013, the District filed its response to the complaint which comprises nine pages.

On August 29, 2013, the District filed a Notice of Insufficiency (NOI) as to Student's complaint on grounds that the complaint does not contain adequate supporting facts which prevents the District from responding or being able to prepare an adequate defense.

[1] A request for a due process hearing under Education Code section 56502 is the due process complaint notice required under Title 20 United States Code section 1415(b)(7)(A).

APPLICABLE LAW

The named parties to a due process hearing request have the right to challenge the sufficiency of the complaint.[2] 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 (FAPE) 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.[3] 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.[4]

The complaint provides enough information when it provides "an awareness and understanding of the issues forming the basis of the complaint."[5] 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.[6] Whether the complaint is sufficient is a matter within the sound discretion of the Administrative Law Judge.[7]

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[2] 20 U.S.C. § 1415(b) & (c).

[3] 20 U.S.C. § 1415(b)(7)(A)(ii)(III) & (IV).

[4] See, H.R.Rep. No. 108-77, 1st Sess. (2003), p. 115; Sen. Rep. No. 108-185, 1st Sess. (2003), pp. 34-35.

[5] Sen. Rep. No. 108-185, *supra*, at p. 34.

[6] *Alexandra R. v. Brookline School Dist*. (D.N.H., Sept. 10, 2009, No. 06-cv-0215-JL) 2009 WL 2957991 at p.3 [nonpub. opn.]; *Escambia County Board 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, No. 8:04CV2657T24EAJ) 2005 WL 2850076 at p. 3[nonpub. opn.] ; but cf. *M.S.-G. v. Lenape Regional High School Dist.* (3d Cir. 2009) 306 Fed.Appx. 772, at p. 3[nonpub. opn.].

[7] Assistance to States for the Education of Children with Disabilities and Preschool Grants for Children With Disabilities, 71 Fed.Reg. 46540-46541, 46699 (Aug. 14, 2006).

DISCUSSION

Student's complaint contains 22 pages. On pages two and three, Student presents a generalized explanation of his clams. The complaint contains, on pages three through 21, a detailed factual rendition. Student presents, on pages three through seven, a rendition of background facts relating to Student which occurred prior to school year 2011-2012. Student then lists the five issues followed by a detailed rendition of facts to support the five issues alleged on pages seven through 21 including a chart presenting Student's progress on annual goals contained in the November 2011, January 2012 and December 2012 Individualized Education Programs (IEP).

The facts alleged in Student's complaint are sufficient to put the District on notice of the issues forming the basis of the complaint. Student's complaint identifies the issues and alleges adequate related facts about the problem to permit District to respond to the complaint and participate in a resolution session and mediation. Student's nine page response to the complaint demonstrates it is able to prepare an "adequate defense."

Therefore, Student's complaint is sufficient.

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.

Dated: September 3, 2013

/s/

ROBERT HELFAND
Administrative Law Judge
Office of Administrative Hearings