BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2017061192
v.	ORDER DENYING VALLEJO CITY UNIFIED SCHOOL DISTRICT'S NOTICE OF INSUFFICIENCY AS TO VALLEJO CITY
NAPA VALLEY UNIFIED SCHOOL DISTRICT AND VALLEJO CITY UNIFIED SCHOOL DISTRICT	

On June 21, 2017, Parent on behalf of Student filed a Due Process Hearing Request[1] (complaint) with the Office of Administrative Hearings naming the Napa Valley Unified School District (Napa Valley) and the Vallejo City Unified School District (Vallejo City). On July 6, 2017, Vallejo City timely filed a Notice of Insufficiency as to Student's complaint. This Order only addresses the sufficiency of the complaint as to Vallejo City.

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 Individuals with Disabilities Education Act 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 identifies seven issues, each of which has several sub-issues. Issue 2 alleges claims against both Napa Valley and Vallejo City dating back to the 2010-2011 school year. Issues 3, 4 and 5 address claims only against Vallejo relating to the 2011-2012, 2012-2013, and 2013-2014 school years. The complaint contains approximately 17 pages of facts in 106 paragraphs, covering the time periods identified in the issues. The complaint also alleges proposed resolutions.

District argues Student's claims against Vallejo City in Issues 2 through 5 are, on their face, outside of the applicable two year statute of limitations, and are therefore insufficient. District asserts that the complaint alleges no facts that enable Student to "pierce the statute of limitations." The purpose of an NOI is to determine whether the facts alleged are sufficient to put the responding parties on notice of the issues forming the basis of the complaint to allow them to participate in a resolution session and mediation. Whether Student's claims are supported by evidence that would extend his claims beyond the applicable statute requires findings of fact on the merits based on evidence presented by both parties.

The complaint is sufficiently pleaded because it identifies the issues and adequate related facts about the problem to permit Vallejo City to respond to the complaint and participate in a resolution session and mediation. Vallejo City may challenge the timeliness of Student's Issues 2 through 5 as alleged against Vallejo City in a motion to dismiss, where Student has an opportunity to respond.

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 11, 2017

DocuSigned by:
Adrienne L. Krikorian
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ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings