BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. PATHWAYS ACADEMY CHARTER SCHOOL AND BONSALL UNIFIED SCHOOL DISTRICT	OAH Case Nos. 2016050487 (Primary) and 2016030368
PATHWAYS ACADEMY CHARTER SCHOOL AND BONSALL UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case Nos. 2016505250 and 2016090419 ORDER DETERMINING STUDENT'S AMENDED DUE PROCESS COMPLAINT TO BE SUFFICIENTLY PLEADED AGAINST HEMET UNIFIED SCHOOL DISTRICT AND RIVERSIDE COUNTY OFFICE OF EDUCATION

On March 2, 2016, Student filed a request for a due process hearing (complaint) with the Office of Administrative Hearings, naming Bonsall Unified School District and Sage Oak (Pathways Academy) Charter School (OAH case number 2016030368). On April 18, 2016, OAH granted Student's motion to amend his complaint. On May 4, 2016, Pathways Academy Charter School and Bonsall filed a complaint naming Student (OAH case number 2016050250). On May 5, 2016, Student filed another complaint, naming Pathways and Bonsall (OAH case number 2016050487). On May 19, 2016, OAH granted Student's request to consolidate these cases. On September 7, 2016, Bonsall and Pathways filed another complaint naming Student (OAH case number 2016090419). On September 23, 2016, OAH granted Bonsall and Pathways' request to consolidate all of these cases.

On September 23, 2016, at the Prehearing Conference for these consolidated matters, OAH requested that the parties each consolidate their pleadings in the two matters each had filed into one complaint, file those amended complaints, and dismiss the second case as not required.

On October 20, 2015, Student filed an amended complaint in OAH case number 2016050487, naming Bonsall, Pathways, and new parties Hemet Unified School District and Riverside County Office of Education (RCOE). Student did not dismiss any of the prior cases he had filed.

On October 31, 2016, Hemet and RCOE filed a notice of insufficiency as to Student's amended due process 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.)

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

The complaint that is at issue in this order is the amended complaint filed in OAH case number 2016050487 on October 20, 2016.

It alleges that Pathways and Bonsall committed a series of procedural errors that denied Student a FAPE during the 2015-2016 and 2016-2017 school years. It also alleges that from May 2012 through September 2015, Student attended a school in Hemet, his district of residence, and during that time, Student was not appropriately assessed or offered appropriate special education and related services by Hemet and RCOE, who co-authored Student's IEP's. Student claims that "district" or "respondents" denied him a FAPE by: (1) failing to design an IEP to meet Student's needs; (2) failing to draft an IEP with appropriate goals and present levels of performance; (3) failing to timely and appropriately assess Student in all areas of suspected disability; (4) interfering with Parent's opportunity to participate in the IEP development process, by (a) failing to make a complete offer of FAPE, (b) failing to convene timely IEP team meetings with all team members, (c) failing to provide educational records upon request, (d) predetermining the offer of FAPE, (e) failing to implement the IEP; and (5) violating Section 504 of the Rehabilitation Act.

Although Student's claims are primarily supported by facts from the 2015-2016 school year, each claim could encompass the time during which time Hemet and RCOE were allegedly responsible for Student's FAPE. Student does not specifically delineate which respondent was responsible for which violations of the IDEA, but this is an issue for factual inquiry at hearing. The facts in the amended complaint are sufficient to put Hemet and RCOE on notice of the issues forming the basis of Student's complaint.

The notice of insufficiency by Hemet and RCOE raises the issue of the statute of limitations. However, whether or not the amended complaint raises claims beyond the statute of limitations is not germane to whether that amended complaint provides "an awareness and understanding of the issues forming the basis of the complaint."

Accordingly, Student's statement of claims in the amended complaint (OAH case number 2016050487) is sufficient.

ORDER

1. The amended complaint (OAH case number 2016050487) is sufficient under title 20 United States Code section 1415(b)(7)(A)(ii), as to Hemet Unified School District and Riverside County Office of Education.

2. All mediation, prehearing conference, and hearing dates in this matter are confirmed.

DATE: November 2, 2016

DocuSigned by:
Alexa Hohensee
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ALEXA J. HOHENSEE
Administrative Law Judge
Office of Administrative Hearings