BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. WHITTIER UNION HIGH SCHOOL DISTRICT .	OAH Case No. 2018040740 ORDER DETERMINING DUE PROCESS COMPLAINT TO BE SUFFICIENT

On April 24, 2018, Student filed a due process hearing request[1] (complaint) with the Office of Administrative Hearings naming Whittier Union High School District.

On April 26, 2018, District 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 parents are not represented by counsel. They stated Student's claims in the format requested by the OAH complaint form, that is, to briefly state (i) the problem and (ii) the proposed resolution. The facts alleged in Student's complaint are sufficient to put District on notice of the issues forming the basis of the complaint.

Student states at Issue 1 that he lacks the oral control to eat properly or speak clearly, requiring assistance and additional time to eat, and resulting in difficulty with academics and social interaction. As a remedy, Student seeks reimbursement to Parents for future oral placement therapy and speech therapy. At Issue 2, Student alleges that he has severe difficulty with motor planning and sensory issues, resulting in an inability to respond to questions or interact at school without verbal and physical prompting. As a remedy, he requests reimbursement for prospective occupational therapy. Student alleges at Issue 3 that he has severe communication deficits and struggles to type, limiting his ability to communicate. Student requests AAC, or augmentative and alternative communication, services outside of the school day in Issue 3, and augmentative and alternative communication services to be provided during his school day at Issue 4.

Student's complaint identifies the issues and adequate related facts about the problem to permit District to respond to the complaint and participate in a resolution session and mediation.

Therefore, Student's statement of the four claims 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.

DATE: April 27, 2018

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