BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: SWEETWATER UNION HIGH SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH CASE NO. 2013030139 ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

On March 1, 2013 Sweetwater Union High School District (District) filed a Due Process Hearing Request[1] (complaint) naming Student as the respondent.

On March 8, 2013, Student filed a Notice of Insufficiency (NOI) as to the complaint.

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

[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).

[2] 20 U.S.C. § 1415(b) & (c).

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

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 (ALJ).[7]

DISCUSSION

The facts alleged in District's complaint are sufficient to put Student on notice of the issues forming the basis of the complaint. District alleges that Student was dismissed from a non-public school, Excelsior Academy; that District offered a program at East Hills Academy that can successfully implement Student's individualized education program in the least restrictive environment; that parents instead unilaterally placed Student at another non-public school, Banyon Tree Foundations Academy; and that District believes Banyon Tree is too restrictive a placement. As a resolution, District seeks an order placing Student at East Hills Academy. District's complaint identifies the issues and adequate related facts about the problem to permit Student to respond to the complaint.

Student's NOI contends that the biographical information regarding Student placed on the cover page of the complaint is wrong. Student disputes the characterization of the placement at Banyon Tree as "unilateral." Student further complains that the complaint does not contain facts regarding the aspects or elements of the various placements at issue, nor the reasons Student was dismissed from Excelsior, does not compare the programs under consideration, does not contain an

---

[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).

explanation of Student's unique needs, and does not provide details establishing the restrictiveness or not of the placements at issue.

Under the liberal construction and relative informality of due process hearings under IDEA, however, District's complaint contains sufficient factual allegations regarding the problem and proposed resolutions to provide an awareness and understanding of the issues forming the basis of the complaint. Therefore, District'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: March 11, 2013

/s/

JUNE R. LEHRMAN
Administrative Law Judge
Office of Administrative Hearings