BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

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| In the Matter of:<br><br>PARENT ON BEHALF OF STUDENT,<br><br>v.<br><br>OAKLAND UNIFIED SCHOOL DISTRICT. | OAH Case No. 2015041077<br><br>ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT |

On April 17, 2015 Parent on behalf of Student filed a Due Process Hearing Request[1] naming Oakland Unified School District.

On April 22, 2015, District 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.[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 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

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[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.[7]

## DISCUSSION

District's challenge to the sufficiency of Student's complaint rests upon the charge that the claims only vaguely assert violations, "with no specificity as to as to which goals, assessments, needs, offers of placement, or services are placed in issue." District's objection is not well-founded. Although the statement of each issue contains summary language, they are recapitulating previous sections reporting Parents' characterizations of the shortcomings of the April 23, 2013, individualized education plan and the District's alleged failure to hold a plan meeting in the period following April 23, 2014. Parents have asserted that Student suffers disabilities due to dyspraxia and hypotonia, and included lists of needs and related services to which they say District has been derelict in responding. The complaint contains text from statements Parents provided in response to District's educational offers which is replete with specific complaints and suggestions regarding the offers, Student's unmet needs, deficiencies in the goals and performance levels, and suggested services.

The facts alleged in Student's complaint are sufficient to put the District on notice of the issues forming the basis of the complaint and the time periods involved. Student's

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[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).

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 two 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.

IT IS SO ORDERED.

DATE: May 1, 2015

**/s/**

CHRIS BUTCHKO
Administrative Law Judge
Office of Administrative Hearings