BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

CONEJO VALLEY UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2019071203

ORDER DETERMINING THE COMPLAINT PARTIALLY SUFFICIENT

On July 29, 2019, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Conejo Valley Unified School District. On August 13, 2019, Conejo Valley filed a Notice of Insufficiency as to the complaint.

APPLICABLE LAW

The named parties have the right to challenge the complaint's sufficiency. (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: (1) describes the problem relating to the proposed change regarding the Student's identification, evaluation, or educational placement, or providing the Student a free appropriate public education; (2) includes facts about the

problem; and (3) includes a proposed resolution 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

Student alleges three problems in the complaint. Problem one is sufficient, however, problems two and three are proposed resolutions, not issues. The issues are discussed in more detail below.

Student lists the first issue in two places, first on page two of the complaint as a proposed issue and then again on page six as a problem. Student alleges Conejo Valley failed to offer him an appropriate educational program for the past two years. Student describes the problem by alleging Conejo Valley's May 29, 2018 individualized education program did not offer him FAPE because he struggled with social skills and needed to be around typical peers. Student also alleges the IEP does not meet his unique needs. Student provides facts related to the problem, he lists the services offered and alleges that he did not make progress on his goals and that Parents did not want him in a special day class. Student lists adequate related facts to permit Conejo Valley to respond to the complaint and participate in a resolution session and mediation.

With regard to Issue Two, Student alleges under the proposed issues that Conejo Valley is required to provide Student with an ongoing appropriate educational program and under the heading for problem two states he is entitled to relief as appropriate. Student also lists the compensatory services he alleges he is entitled to. Issue Two is not an issue but rather a proposed resolution.

With regard to Issue Three, Student alleges under the proposed issues that Conejo Valley is required to provide Student with compensatory services and under the heading for problem three states he is entitled to an ongoing appropriate program. Student alleges he requires compensatory services to make educational progress. Issue Three is not an issue but rather a proposed resolution.

Student's proposed resolutions as listed in problem two request reimbursement for any assessment and related services Parents paid for, placement in a general education setting with supports, 150 hours of educational therapy, 150 hours of occupational therapy from a nonpublic agency, and an independent educational

evaluation to determine his needs. A complaint is required to include proposed resolutions to the problem, to the extent known and available to the party at the time. (20 U.S.C. §1415(b)(7)(A)(ii)(IV).) The proposed resolution stated in Student's complaint are well-defined. Student has met the statutorily required standard of stating a resolution to the extent known and available to him at the time.

ORDER

1. Issue One in Student's complaint is sufficient under title 20 U.S.C. section 1415(b)(7)(A)(ii).
2. Issues Two and Three of Student's complaint are insufficiently pled under title 20 United States Code section 1415(c)(2)(D).
3. Student shall be permitted to file an amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II).
4. The amended complaint shall comply with the requirements of title 20 U.S.C. section 1415(b)(7)(A)(ii), and shall be filed not later than 14 days from the date of this order. The filing of an amended complaint will restart the applicable timelines for a due process hearing.
5. If Student fails to file a timely amended complaint, the hearing shall proceed only on Issue One in Student's complaint.

IT IS SO ORDERED.

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Linda Johnson
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DATED: August 16, 2019

Linda Johnson
Administrative Law Judge
Office of Administrative Hearings