BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

NEWHALL SCHOOL DISTRICT.

OAH CASE NUMBER 2020060872

ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

JULY 10, 2020

On June 25, 2020, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Newhall School District. On July 9, 2020, Newhall School District filed a Notice of Insufficiency as to the complaint, specifically Issues 5 and 6.

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's complaint alleges six enumerated claims, all of which are sufficient. In the first issue, Student alleges that Newhall denied Student a free appropriate public education, or FAPE, by failing to conduct a comprehensive psychoeducational evaluation in June 2018 because it did not assess in the area of auditory and visual processing and working memory, and failed to appropriately assess in the area of social emotional. The second issue alleges Newhall denied Student a FAPE by failing to conduct a functional behavior assessment in June 2018 given Student's ongoing behaviors. The third issue alleges Newhall denied Student a FAPE in the June 28, 2018 individualized education program, or IEP, by failing to offer a one-to-one-aide due to her behavior, and the fourth issue makes the identical claim regarding the June 4, 2019 IEP.

The fifth and sixth issues, which contain subparts for each goal area at issue, allege that Newhall denied Student a FAPE by failing to offer appropriate goals in the June 28, 2018 and June 4, 2019 IEPs, respectively. Student claims that goals offered were inadequate and that additional goals should have been offered to ensure meaningful academic progress and maintain grade level skill. Specifically, Student contends that in both IEPs the reading goal was not reasonably calculated to ensure meaningful educational benefit, and that there were no reading goals in the areas of reading fluency, reading comprehension, sight words, decoding or vocabulary. Student also alleges that in both IEPs, the writing goal was not reasonably calculated to ensure meaningful educational benefit, and that there were no writing goals in the areas of writing fluency, written expression, spelling, grammar, capitalization, and punctuation. For math, Student claims that in both IEPs the math goal was not reasonably calculated to ensure meaningful educational benefit, and that there were no goals in the areas of

math facts, math reasoning, counting and shapes. The complaint also contains proposed resolutions regarding all of the claims.

Issues one and two are sufficient. They identify the problem as the inadequacy of the June 2018 psychoeducational evaluation and failure to conduct a functional behavior assessment in June 2018. Both claims allege specifics supporting those issues, including the details regarding the areas Newhall failed to assess and the Student's behavior that warranted an assessment.

Issues three and four, which challenge the failure to offer an aide, are also sufficiently pled. The complaint sets forth the specific IEPs at issue in which an aide should have been offered along with detailed allegations regarding Student's behavior supporting Student's claims.

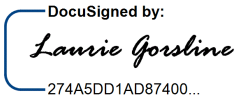
With regard to issues five and six, Student's complaint alleges sufficient facts to provide Newhall with an awareness and understanding of the issues forming the basis of Student's claims. Both issues identify the specific IEPs at issue, namely, the June 28, 2018 and June 4, 2019 IEPs. Both claims also identify which provisions of FAPE Student is challenging, namely, the reading, writing and math goals, and specifically, which additional goals Student should have been offered in those areas. Student alleges that she has failed to make progress in all academic areas, and that the goals offered did not ensure meaningful academic progress or maintain grade level skills, giving some specific examples of Student's alleged academic deficiencies.

Student's complaint identifies the issues and adequate facts about the problems to permit Newhall to respond and participate in a resolution session and mediation. Therefore, the facts alleged in Student's complaint are 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.



Laurie Gorsline

Administrative Law Judge

Office of Administrative Hearings