BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

SAN JOSE UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2020050242

ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

SEPTEMBER 16, 2020

On May 6, 2020, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming San Jose Unified School District. On August 26, 2020 Student filed a Motion to Amend Complaint; the motion was granted on August 31, 2020. On September 16, 2020, San Jose Unified School District filed a Notice of Insufficiency as to the amended 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

San Jose timely filed its notice of insufficiency and challenged Issues 1, 2, and 3 of Student's amended complaint on the grounds that the allegations were confusing and insufficiently pled. The facts alleged in Student's complaint are sufficient to put San Jose on notice of the issues forming the basis of the complaint

Student's complaint sets forth facts related to their child find and FAPE allegations. San Jose challenges the sufficiency of the complaint, essentially asking for greater factual support for the claims. Such support is not required for a complaint to be deemed sufficiently pled. The complaint identifies the issues related to child find and denial of Student's right to a free appropriate public education. Student has provided adequate facts about the problem to permit San Jose Unified School District to respond and participate in a resolution session and mediation. Therefore, Student's statement of the three claims is sufficient.

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ORDER

1. The complaint is sufficient under title 20 United States Code section 1415(b)(7)(A)(ii).
2. All prehearing conference and due process hearing dates in this matter are confirmed.

IT IS SO ORDERED.

DocuSigned by:
Marlo Nisperos
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Marlo Nisperos

Administrative Law Judge

Office of Administrative Hearings