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 2019060457

ORDER OF DETERMINATION OF SUFFICIENCY OF ISSUES ONE, TWO AND THREE OF STUDENT'S AMENDED DUE PROCESS COMPLAINT

On July 15, 2019, Student filed an Amended Due Process Complaint with the Office of Administrative Hearings, referred to as OAH, naming Cornejo Valley Unified School District. On July 30, Cornejo Valley filed a Notice of Insufficiency as to Issues One, Two, and Three of Student's 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's amended complaint sets forth Issues One through Seven. Issues Four through Seven of Student's amended complaint were not alleged to be insufficient and are not at issue in this order. Cornejo Valley asserts that Student's Issues One, Two and Three of his amended complaint are insufficiently pled, as they fail to provide enough information for Cornejo Valley to prepare for hearing or participate in a resolution session or mediation. Student's Issues One, Two and Three are sufficiently pled, as set forth below.

Student's Issue One alleges that Cornejo Valley denied Student a free appropriate public education, often called a FAPE, by failing to respond to Parent's request for an independent educational evaluation, by either funding the independent evaluation or filing for due process to defend the assessment without unreasonable delay. The facts of Student's amended complaint state that Student requested an independent educational evaluation in May 2019, and that Cornejo Valley denied the request but did not file for due process to defend its March 2018 assessment. The facts of Student's amended complaint state that the assessment that Cornejo Valley conducted in March 2018, was Student's triennial assessment. Issue One of Student's amended complaint sets forth the problem, a proposed resolution of an independent educational evaluation, and facts to support the allegation. Issue One is sufficiently pled.

Student's Issue Two alleges that Cornejo Valley denied Student a FAPE by failing to reassess Student for a functional behavior assessment pursuant to Parent's request. Student's amended complaint states that parent made a verbal request for a functional behavior assessment in November 2018 and again in May 2019. Student's amended complaint sets forth facts explaining why a functional reassessment was requested.

Student's issue Two is sufficiently pled as it sets forth the problem, facts supporting the allegation, and a proposed resolution.

Issue Three of the amended complaint alleges that Cornejo Valley denied Student a FAPE by failing conduct a psychoeducational assessment pursuant to Parent's request. Student's amended complaint states that Parent requested a psychoeducational assessment, but the amended complaint did not set forth any specific time period of the alleged Parent request for a psychoeducational evaluation. However, Student stated enough information to put Cornejo Valley on notice of the problem and proposed resolution, for Cornejo Valley to provide a response to Issue Three and to prepare to discuss the issue in a resolution session and mediation.

Student's Issues One, Two and Three are sufficiently pled to allow Cornejo Valley to respond to the amended complaint, prepare for hearing, and participate in a resolution session and mediation.

ORDER

1. Issues One, Two and Three of Student's amended complaint are sufficiently pled under section title 20 United States Code 1415(c)(2)(D).
2. All mediation, prehearing conference, and hearing dates in this matter are confirmed.

IT IS SO ORDERED.

DATED: July 31, 2019

DocuSigned by:
Rita Defilippis
8BD5FE332F4847E...

Rita Defilippis
Administrative Law Judge
Office of Administrative Hearings