BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

GROSSMONT UNION HIGH SCHOOL DISTRICT, SAN DIEGO UNIFIED SCHOOL DISTRICT, AND SAN DIEGO COUNTY OFFICE OF EDUCATION.

OAH CASE NUMBER 2021060238

ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT AS TO GROSSMONT UNION HIGH SCHOOL DISTRICT

JUNE 17, 2021

On June 3, 2021, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Grossmont Union High School District, called Grossmont, San Diego Unified School District, and San Diego Office of Education. On June 16, 2021, Grossmont 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).

Minimal pleading standards apply to requests for due process pursuant to the Individuals with Disabilities Education Act. (*Schaffer ex rel. Schaffer v. Weast,* (2005) 546 U.S. 49, 54 [126 S.Ct.528, 163 L.Ed.2d 387.] 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

The facts alleged in Student's complaint are sufficient. Student's complaint alleges that Student resided in Grossmont in February 2021 and is eligible for special education services. The complaint alleges that Grossmont held individualized education program, called IEP, team meetings on February 5, February 19, 2021, wherein Student was referred for a nonpublic school placement and participated in the Home Choice independent study program through Grossmont, until acceptance at a nonpublic school. Student's complaint alleges that Grossmont offered Student special education services, including specialized academic instruction, counseling, speech and language, college awareness and career awareness, at a nonpublic school placement, pursuant to a written IEP amendment on April 9, 2021. The complaint alleges that Grossmont provided a notice of termination of services and a 20-day notice of change of placement, on May 14, 2021. The complaint alleges that Grossmont notified Parent on May 17, 2021, that it would no longer provide services to Student, and cancelled the educationally related mental health assessment review IEP team meeting scheduled for May 25, 2021. Lastly, the complaint alleges that Student is not currently receiving education services.

Student's complaint alleges two issues, One(A) and One(B), as to Grossmont. Issue One(A) alleges that Grossmont denied Student a free appropriate education, called a FAPE, by failing to implement Student's IEP. Issue One(B) alleges that Grossmont denied Student a FAPE by failing to provide educational services. Student's complaint

identifies the issues and adequate facts about the problem to permit Grossmont to respond and participate in a resolution session and mediation. Grossmont's contention that Student's complaint was not sufficient to provide such notice is unpersuasive.

Therefore, Student's statement of claims regarding Grossmont, are sufficient.

ORDER

1. The complaint, as to Grossmont, 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.

Rita Defilippis

Rita Defilippis
Administrative Law Judge
Office of Administrative Hearings