BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. RIVERSIDE UNIFIED SCHOOL DISTRICT.	OAH Case No. 2018060401 ORDER DETERMINING SUFFICIENCY OF COMPLAINT

On February 12, 2019, Student filed an amended Due Process Hearing Request[1] (complaint) with the Office of Administrative Hearings naming Riverside Unified School District. On February 27, 2019, Riverside timely filed a Notice of Insufficiency, and a Motion to Dismiss, as to Student's complaint. Student filed a response to Riverside's Notice of Insufficiency and Motion to Dismiss on March 5, 2019. Riverside's Motion to Dismiss is considered in a separate order. For the reasons discussed below, the complaint is sufficient.

APPLICABLE LAW

The named parties to a due process hearing request have the right to challenge the sufficiency of the complaint. (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 contains: (1) a description of the nature of the problem of the child relating to the proposed initiation or change concerning the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to the child; (2) facts relating to the problem; and (3) a proposed resolution of the problem 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.)

[1] A request for a due process hearing under Education Code section 56502 is the due process complaint notice required under title 20 U.S.C. section 1415(b)(7)(A).

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 Sch. 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 Sch. Bd.* (M.D. Fla., Oct. 28, 2005, 8:04CV2657T24EAJ) 2005 WL 2850076 [nonpub. opn.]; but cf. *M.S.-G v. Lenape Regional High Sch. 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 consists of 15 pages, 13 identified issues ("allegations"), and an additional unnumbered assertion pertaining to Riverside's June 2018 graduation of Student. Student asserts that Riverside: 1) failed to adequately assess Student; 2) failed to provide transition services; 3) failed to meet Student's social emotional needs; 4) ignored peer and adult bullying; 5) failed to meet her needs in assistive technology; 6) failed to provide an accessible campus to Student particularly during construction; 7) failed to assess Student's needs in vision, and ignored recommended modifications by Student's optometrist; 8) failed to ensure Student's safety during emergencies by "turning her into a spectator during emergency drills"; 9) failed to meet Student's needs for adaptive physical education; 10) refused to follow private occupational therapy and physical therapy recommendations and failed to develop appropriate recommendations in these areas; 11) failed to "honor" Parents' or Student's procedural rights by failing to file for due process, and delaying the provision of documents in Mother's native language; 12) failed to provide Student a free appropriate public education by failing to adequately assess her processing skills; 13) violated Student's rights under Section 504 of the Rehabilitation Act of 1973; and 14) purported to graduate Student in June 2018 "over objection."

The facts alleged in Student's amended complaint are sufficient to put Riverside on notice of the issues forming the basis of the complaint. The amended complaint identifies the issues and adequate related facts about the problem to permit Riverside to respond to the complaint and participate in a resolution session and mediation.

The amended complaint includes nine proposed resolutions, including 1) reverse graduation in order to provide transition services; 2) compensatory services in assistive technology, math, and organizational skills; 3) 1:1 aide support to allow access to community college; 4) independent educational evaluations in the areas of transition and implication of Student's medical needs; 5) individualized transition services with oversight by an outside consultant; 6) compensatory and ongoing social opportunities; 7) compensatory and ongoing

psychotherapy; 8) residential supports; 9) reimbursement for damages associated with Section 504 violations. The proposed resolutions are sufficiently pled.

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.

DATE: March 5, 2019

DocuSigned by:
Adrienne L. Krikorian
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ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings