BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

GILROY UNIFIED SCHOOL DISTRICT, CAMBRIAN SCHOOL DISTRICT, CAMPBELL UNION HIGH SCHOOL DISTRICT, AND SANTA CLARA COUNTY OFFICE OF EDUCATION.

OAH CASE NUMBER 2020100280

ORDER FINDING DUE PROCESS COMPLAINT SUFFICIENT

OCTOBER 21, 2020

On October 08, 2020, Parents on behalf of Student filed a due process hearing request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Gilroy Unified School District, Cambrian School District, Campbell Union High School District, and Santa Clara County Office of Education. On October 21, 2020, Gilroy and Campbell Union 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).

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 identifies the issues and adequate facts about the problem to permit Gilroy and Campbell Union to respond and participate in a resolution session and mediation.

The complaint details alleged procedural and substantive violations of the IDEA by local educational agencies, including Gilroy and Campbell Union, occurring in the 2018-2019, 2019-2020 and 2020-2021 school years. The complaint contains specific factual allegations regarding each educational agency, and claims at Issue 1 through 3 that Gilroy and Campbell Union failed to fully implement the effective individualized education programs, or IEPs, failed to offer a free appropriate public education, or FAPE, failed to ensure full parental participation, failed to hold a transition IEP team meeting or to make a clear offer of FAPE. Gilroy and Campbell Union contend that the factual allegations supporting each claim are vague and confusing, but they are not.

Gilroy and Campbell Union contend that Student's complaint does not provide them with an awareness and understanding of the issues forming the basis of the complaint because footnote 5 of the complaint states that Student did not list all of the possible IDEA violations that occurred, but only factual allegations to support the issues asserted. This footnote is similar to the common pleading statement that the complaining party reserves the right to amend the complaint at any time to allege additional violations. Student will be not be permitted to raise issues not pled in Student's complaint. (Ed. Code, § 56502, subd. (i) [party requesting the due process

hearing may not raise issues at hearing that were not alleged in the complaint unless the respondent party agrees].)

Therefore, Student's statement of claims is 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.

DocuSigned by:
Alexa Hohensee
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Alexa Hohensee

Administrative Law Judge

Office of Administrative Hearings