BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

SAN DIEGUITO UNION HIGH SCHOOL DISTRICT, SAN DIEGO COUNTY OFFICE OF EDUCATION, AND CALIFORNIA DEPARTMENT OF EDUCATION.

OAH CASE NUMBER 2021050037

ORDER DETERMINING DUE PROCESS COMPLAINT SUFFICIENT AS TO SAN DIEGO COUNTY OFFICE OF EDUCATION

JULY 6, 2021

On April 29, 2021, Student filed a Request for Due Process Hearing, referred to as a complaint, with the Office of Administrative Hearings, called OAH, naming San Dieguito Union High School District, North Coastal Consortium for Special Education, and San Diego County Office of Education. On May 17, 2021, OAH determined the complaint was insufficiently pled as to North Coastal Consortium and allowed Student

14 days to amend the complaint. On June 1, 2021, Student filed an amended complaint naming the same three parties as respondents. On June 9, 2021, OAH determined Student's amended complaint was insufficiently pled as to North Coastal Consortium. OAH dismissed Issues One and Two as to North Coastal Consortium without further leave to amend the complaint with respect to that respondent.

On June 14, 2021, OAH determined Student's amended complaint was insufficiently pled as to San Diego County and allowed Student 14 days to amend the complaint. On June 18, 2021, Student filed a second amended complaint naming San Dieguito, North Coastal Consortium, San Diego County, and the California Department of Education. On June 22, 2021, San Diego County filed a Motion to Dismiss itself as a party to the case. On July 1, 2021, OAH denied San Diego County's motion.

Also, on July 1, 2021, San Diego County filed a Notice of Insufficiency as to Student's second amended complaint. On July 2, 2021, Student filed an opposition to the Notice of Insufficiency.

The named parties have the right to challenge the complaint's sufficiency. (20 U.S.C. § 1415(b) and (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) and (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.)

Student's second amended complaint is sufficiently pled as to San Diego County. The complaint alleges two issues against San Diego County. Specifically, the complaint alleges San Diego County failed to identify, assess, and provide special education services to Student. Further, the complaint alleges San Diego County provides case management to its member school districts for students placed in residential treatment centers. The complaint alleges San Dieguito, Student's school district of residence, is a school district under San Diego County's management and that Student attended a residential treatment center during a portion of the time at issue in the complaint. Finally, the complaint includes proposed resolutions to the issues alleged.

The complaint provides enough information to give San Diego County an awareness of the issues and to adequately prepare for a resolution session, mediation, and due process hearing. Accordingly, the second amended complaint is sufficient as to San Diego County.

IT IS SO ORDERED.

Tara Doss

Tara Doss

Administrative Law Judge

Office of Administrative Hearings