BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. ACALANES UNION HIGH SCHOOL DISTRICT AND MORAGA SCHOOL DISTRICT.	OAH Case No. 2018070440 ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

On July 10, 2018, Parent on behalf of Student filed a Due Process Hearing Request[1] with the Office of Administrative Hearings, naming Acalanes Union High School District and Moraga School District. On July 27, 2018, Moraga filed a Notice of Insufficiency as to Student's complaint.

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).

The complaint is deemed sufficient unless a party notifies the Office of Administrative Hearings and the other party in writing within 15 days of receiving the complaint that the party believes the complaint has not met the notice requirements. (20 U.S.C. § 1415(c)(2)(C); Ed. Code, § 56502, subd. (d)(1).)

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

[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).

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.) 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 was filed on July 10, 2018. Moraga indicates in its Notice of Insufficiency that it received Student's complaint on July 12, 2018. However, Student's complaint includes a proof of service that declares it was served by facsimile transmission on Bruce Burns, Moraga's Superintendent, along with Acalanes' Director of Special Services and OAH, on July 10, 2018. Moraga provided no evidence or argument showing that Student's complaint was not served on July 10, 2018, in accord with its proof of service.

Moraga's Notice of Insufficiency was dated, filed with OAH, and served on July 27, 2018, which is more than 15 days after it received Student's complaint. Moraga's Notice of Insufficiency was not filed within the statutorily required timeline. Therefore, Student's complaint is deemed sufficient.

ORDER

1. The complaint is deemed sufficient under title 20 United States Code section 1415(c)(2)(C) and Education Code section 56502, subdivision (d)(1).

2. All mediation, prehearing conference, and hearing dates in this matter are confirmed.

DATE: July 30, 2018

DocuSigned by:
Paul H. Kamoroff
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PAUL H. KAMOROFF
Administrative Law Judge
Office of Administrative Hearings