BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. KERN COUNTY SUPERINTENDENT OF SCHOOLS-VALLEY OAKS CHARTER SCHOOL TEHACHAPI.	OAH Case No. 2018101041 ORDER DETERMINING REQUEST FOR DUE PROCESS SUFFICIENT

On October 24, 2018, Parent on Behalf of Student (Student) filed a Due Process Hearing Request[1] (complaint) with the Office of Administrative Hearings naming Kern County Superintendent of Schools-Valley Oaks Charter School Tehachapi as respondent. On November 5, 2018, Kern County-Valley Oaks Tehachapi filed a Notice of Insufficiency as to Student's complaint. Kern County-Valley Oaks Tehachapi asserts that Student's complaint is insufficient because the Claims for Relief section of the complaint is not a reliable statement of issues. This assertion is based on a prior experience by counsel for Kern County-Valley Oaks Tehachapi in which counsel for Student asserted the issues in the case were not limited to the listed Claims for Relief at the time of the Prehearing Conference. Kern County-Valley Oaks Tehachapi seeks an order requiring Student to explicitly state a list of issues.

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

[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).

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.)

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 to put Kern County-Valley Oaks Tehachapi on notice of the issues forming the basis of the complaint. Student's complaint identifies the issues and adequate related facts about the problem to permit Kern County-Valley Oaks Tehachapi to respond to the complaint and participate in a resolution session and mediation. The pleading standard applicable to due process hearing requests is not as strict as that in other judicial forums. In a request for due process hearing related to a special education case, so long as Kern County-Valley Oaks Tehachapi has received information putting it on notice of Student's claims, the complaint 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.

DATE: November 6, 2018

DocuSigned by:
Penelope S. Pahl
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PENELOPE S. PAHL
Administrative Law Judge
Office of Administrative Hearings