BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2016100759
v.	ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT
DELANO JOINT UNION HIGH SCHOOL DISTRICT.	

On October 13, 2016 Parent on behalf of Student filed a Due Process Hearing Request[1] (complaint) with the Office of Administrative Hearings naming Delano Union School District as respondent. On, October 20, 2016, Delano 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).

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 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

Delano asserts the allegations in the complaint lack adequate specificity to provide notice allowing Delano to put forth a defense. The facts alleged in Student's complaint are sufficient to put Delano 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 District to respond to the complaint and participate in a resolution session and mediation.

Although the sub-issues would have been more easily discernable if Student had separately numbered each one he articulated under Issue I, the sub-issues are identified adequately. Student has apprised Delano of his concerns regarding the fact that he believes a) the IEP was not reasonably calculated to address his needs; b) the services offered were inadequate to support attainment of his IEP goals; c) the skill level of service providers was inadequate to address Student's needs; d) services were removed without assessment; e) the IEP offered was predetermined; f) Delano failed to consider information provided by Student's parent; g) Delano denied parents the right to participate in development of the IEP and h) Delano denied Student the right to "stay put".

Delano also asserts that Student's complaint does not allege the provision of proper notice prior to seeking reimbursement for the expense of parent's private placement of Student thus rendering that request unclear. A complaint is required to include proposed resolutions to the problem, to the extent known and available to the party at the time. (20 U.S.C. §1415(b)(7)(A)(ii)(IV).) The proposed resolution related to reimbursement for the expense of Student's private placement as stated in Student's complaint is well-defined. Student has met the statutorily required standard of stating a resolution to the extent known and available to him at the time. The applicable federal regulations do not require that he plead whether or not he provided Delano any required notice for unilateral placement when asking for reimbursement for a unilateral placement as a remedy. . Delano has clearly been put on notice that Student seeks reimbursement for the private school placement by virtue of Student's "Resolutions to Problems" number 2 which specifically seeks, "an order

compelling the district to reimburse the family for the out of pocket expense they incurred to educate [Student] given Delano's refusal to provide [Student] with FAPE."

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: October 24, 2016

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