BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2019020630
v.	ORDER DETERMINING SUFFICIENCY OF DUE PROCESS HEARING REQUEST
WESTSIDE UNION SCHOOL DISTRICT.	

On February 19, 2019, Student filed a due process hearing request[1] (complaint) with the Office of Administrative Hearings naming Westside Union School District.[2] On February 22, 2019, Westside 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).

[2] Student also named Antelope Valley Special Education Local Plan Area as a party, but dismissed it on February 27, 2019.

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

Student does not state specific issues or claims, in her complaint. In the second and sixth paragraphs of the complaint Student claims that Westside did not offer her an educational program that met her unique needs for the two-year period preceding the filing of the complaint. However, as Westside discusses in its notice of insufficiency, the only information Student presents in the complaint to support this claim is reference to an individualized education program team meeting that was convened on May 1, 2018, and claims that at that time it was found that Student had not met several goals. Student then alleges that the IEP developed at this meeting did not increase services that should have been increased because of failure to meet goals, and proposes how those services offered should have been increased.

Student asserts Westside denied her a program that would meet her unique needs for the past two years, but only provided facts regarding the May 1, 2018 IEP team meeting and resulting IEP. Westside has not been provided with information that would enable it to prepare for a resolution session, mediation and a due process hearing as to the claim that it did not offer her a program to meet her educational needs before the IEP developed May 1, 2018. Therefore, Student's complaint is insufficiently plead as to claims before the IEP of May 1, 2018.

ORDER

1. The complaint is sufficient under title 20 United States Code section 1415(b)(7)(A)(ii) as to claims after May 1, 2018.

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

3. Student's complaint is insufficiently pled under section title 20 United States Code 1415(c)(2)(D) as to claims prior to May 1, 2018.

4. Student shall be permitted to file an amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II).[3]

5. The amended complaint shall comply with the requirements of title 20 U.S.C. section 1415(b)(7)(A)(ii), and shall be filed not later than 14 days from the date of this order.

IT IS SO ORDERED.

DATE: February 27, 2019

DocuSigned by:
Rebecca Freie
D1AE8D9E81A848C...

REBECCA FREIE
Administrative Law Judge
Office of Administrative Hearings

DATE: February 27, 2019

REBECCA FREIE
Administrative Law Judge
Office of Administrative Hearings

[3] The filing of an amended complaint will restart the applicable timelines for a due process hearing.