BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2017050113
v.	ORDER OF DETERMINATION OF SUFFICIENCY OF STUDENT'S DUE PROCESS COMPLAINT
TRACY UNIFIED SCHOOL DISTRICT.	

On April 28, 2017 Student filed a Due Process Hearing Request[1] (complaint) with the Office of Administrative Hearings naming Tracy Unified School District. On May 8, 2017, Tracy 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.)

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

[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).

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 Tracy 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 Tracy to respond to the complaint and participate in resolution session and mediation.

Tracy included a motion of insufficiency in its motion to dismiss claims for being outside the statute of limitations and outside the jurisdiction of OAH. Tracy should have filed a separate motion of insufficiency. Tracy's claim of insufficiency relates to only issue 1N of Student's complaint which expressly claims that Tracy denied Student a FAPE due to Tracy's failure to provide Student's records within 5 days of Student's request. The basis of Tracy's claim of insufficiency is that Student did not allege a denial of FAPE. Based on the face of Student's complaint, Tracy's assertion of insufficiency is without merit.

Therefore, Student's statement of the issue 1N is sufficient and it gives adequate notice of the records issue to allow Tracy to defend its position in mediation or at hearing.

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: May 10, 2017

DocuSigned by:
Rita DeFilippis
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RITA DEFILIPPIS
Administrative Law Judge
Office of Administrative Hearings