BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. SACRAMENTO CITY UNIFIED SCHOOL DISTRICT.	OAH CASE NO. 2014030365 ORDER DENYING DISTRICT'S NOTICE OF INSUFFICIENCY

Parent on Student's behalf filed a request for due process hearing (complaint)[1] on March 10, 2014 naming Sacramento City Unified School District (District). On March 18, 2014, OAH granted District's notice of insufficiency (NOI) and gave Student 14 days leave to amend the complaint. On March 29, 2014, Parent timely filed an amended complaint. On April 1, 2014, District timely filed an NOI. For the reasons stated below, District's NOI is denied.

APPLICABLE LAW

The named parties to a due process hearing request have the right to challenge the sufficiency of the complaint.[2] 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.[3] These requirements prevent vague and confusing complaints, and promote fairness by providing the

[1] A request for a due process hearing under Education Code section 56502 is the due process complaint notice required under Title 20 United States Code section 1415(b)(7)(A).

[2] 20 U.S.C. § 1415(b) & (c).

[3] 20 U.S.C. § 1415(b)(7)(A)(ii)(III) & (IV).

named parties with sufficient information to know how to prepare for the hearing and how to participate in resolution sessions and mediation.[4]

The complaint provides enough information when it provides "an awareness and understanding of the issues forming the basis of the complaint."[5] 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.[6] Whether the complaint is sufficient is a matter within the sound discretion of the Administrative Law Judge.[7]

DISCUSSION

The amended complaint alleges that Student was diagnosed in July 2013 with Depressive and Anxiety Disorder; that an IEP was held on February 14 and February 19, 2014, at which Student asserts she was not offered an appropriate educational placement to meet her unique needs. The complaint refers to findings in a February 11, 2014 psycho-educational report describing in more detail Student's unique behavior and social emotional needs and past behaviors and disciplinary incidents at school. Student alleges that District offered her placement at Success Academy at the February 19, 2014 IEP meeting, which Student contends is not an appropriate placement because Success Academy's student population has behaviors that could trigger Student's behaviors and past trauma. As a proposed resolution, Student seeks placement in a private educational setting of Parent's choice at District's expense, including tutoring and transportation, and compensatory education.

Student's amended complaint includes numerous allegations relating to bullying of Student and Parent as well as administrative conduct by District personnel that do not raise claims relating to a proposed initiation or change concerning the identification, evaluation, or

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[4] See, H.R.Rep. No. 108-77, 1st Sess. (2003), p. 115; Sen. Rep. No. 108-185, 1st Sess. (2003), pp. 34-35.

[5] Sen. Rep. No. 108-185, *supra*, at p. 34.

[6] *Alexandra R. v. Brookline School Dist*. (D.N.H., Sept. 10, 2009, No. 06-cv-0215-JL) 2009 WL 2957991 at p.3 [nonpub. opn.]; *Escambia County Board 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, No. 8:04CV2657T24EAJ) 2005 WL 2850076 at p. 3[nonpub. opn.] ; but cf. *M.S.-G. v. Lenape Regional High School Dist.* (3d Cir. 2009) 306 Fed.Appx. 772, at p. 3[nonpub. opn.].

[7] Assistance to States for the Education of Children With Disabilities and Preschool Grants for Children With Disabilities, 71 Fed.Reg. 46540-46541, 46699 (Aug. 14, 2006).

educational placement of the child, or the provision of a free appropriate public education to Student. Those are issues that are not within OAH jurisdiction. However, those allegations do not, by themselves, render the amended complaint insufficient.

The complaint can be interpreted to state only one issue, which is within OAH jurisdiction and raises claims under the IDEA. Specifically, the issue is: Did District deny Student a free appropriate public education in her February 14 and February 19, 2014 IEPs by failing to offer Student an appropriate placement to meet her unique needs? The issue is sufficiently pleaded to give District notice of the claim in order to prepare for a resolution session, mediation and due process hearing. Student's proposed resolutions of a private placement, transportation, and compensatory education are also sufficient.

ORDER

1. The complaint is sufficient under Title 20 United States Code section 1415(b)(7)(A)(ii).

2. The only issue for hearing is the issue identified in this order.

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

DATE: April 3, 2014

/s/
ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings