BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2017060038
v.	ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT
HERMOSA BEACH CITY SCHOOL DISTRICT.	

On May 31, 2017, Student filed a Due Process Hearing Request[1] (complaint) with the Office of Administrative Hearings naming Hermosa Beach City School District. On June 15 2017, District filed a Notice of Insufficiency as to Student's complaint. On June 20, 2017, Student filed an opposition.

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,

[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).

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 the District 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.

Student alleges 11 issues his complaint. District challenged the sufficiency of seven of those issues, Issue A, B, C, D, E, G, and I[2]. District also challenges the sufficiency of all the proposed resolutions.

Issue A alleges a denial of FAPE based on inappropriate behavior interventions. Student lists significant facts relating to behavior interventions both in the background section and the statement of the issue. Issue B alleges Parent was denied the right to participate in developing Student's individualized educational program because she was not notified of emergency behavior interventions. Again Student lists facts and dates relating to emergency behavior interventions and lack of parental notification. Issue C alleges a denial of FAPE due to behavior interventions that caused Student increased anxiety and school phobia which impacted his access to education. Student incorporates all previous facts alleged relating to behavior with this issue. Issue D alleges a denial of FAPE due to failing to provide behavior interventions so Student could access occupational therapy. Student not only lists facts related to this issue, but also lists specific IEPs at issue. Issue E alleges a denial of FAPE due to a reduction in language and speech services. Again, Student lists facts and dates relating to this issue. Issue G alleges a denial of FAPE for failing to implement a behavior support plan and failing to develop appropriate behavior goals. Student lists specific facts and dates relating to this issue. Issue I alleges a denial of FAPE by failing to develop goals in the areas of academics, toileting, and behavior that were reasonably

[2] Student identified issues alphabetically, District referred to Issues 1-5, 7, and 9, which correlate to A-E, G, and I, this order uses alphabetical designations for clarity.

calculated to provide Student educational benefit. Student lists the IEPs at issue and facts regarding the goals.

Therefore, Student's statement of the claims is sufficient.

Among Student's proposed resolutions is a request for compensatory services for all 11 issues. 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 stated in Student's complaint is not well-defined. However, Student has met the statutorily required standard of stating a resolution to the extent known and available to him at the time.

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: June 22, 2017

DocuSigned by:
Linda Johnson
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LINDA JOHNSON
Administrative Law Judge
Office of Administrative Hearings