BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

MONROVIA UNIFIED SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NUMBER 2019111080

ORDER OF DETERMINATION OF SUFFICIENCY OF

DUE PROCESS COMPLAINT

On November 27, 2019, Monrovia Unified School District filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Student. On December 6, 2019, Student filed a Notice of Insufficiency as to the complaint.

APPLICABLE LAW

The named parties have the right to challenge the complaint's sufficiency. (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: (1) describes the problem relating to the proposed change regarding the Student's identification, evaluation, or educational placement, or providing the Student a free appropriate public education; (2) includes facts about the problem; and (3) includes a proposed resolution 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 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 timely filed the notice of insufficiency and challenges the single issue raised in the complaint on the grounds that Monrovia's failed to specify which

Independent Educational Evaluation, referred to as IEE, it is refusing to fund. Student also alleges Monrovia failed to provide sufficient facts related to the issues forming the basis of the complaint which prevents Student from preparing for hearing and meaningfully participate in resolution sessions or mediations. Student asserts that Monrovia failed to give Prior Written Notice, called PWN, in response to Parent's request for IEEs, and the lack of PWN combined with the deficient complaint, is insufficient to provide notice to Student.

The facts alleged in Monrovia's complaint are sufficient. Monrovia's complaint identifies one issue and adequate facts about the problem to permit Student to prepare for hearing and participate in a resolution session and mediation.

Monrovia's complaint asserts Student requested testing for special education eligibility and assessments were conducted in response to Student's request. The complaint describes the instruments administered by the assessor, records reviewed, observations made, and interviews conducted. Monrovia's complaint identifies one issue for hearing, whether the psycho-educational assessment dated November 19, 2019 met all legal standards such that Monrovia may deny Parent's request for Independent Educational Evaluations in all areas of suspected disability. Monrovia's statement of the one claim is sufficiently pled and sufficient information related to why it believes the assessments were legally compliant are contained in the complaint.

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.

IT IS SO ORDERED.

DocuSigned by:
Marlo Nisperos
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DATED: December 9, 2019

Marlo Nisperos
Administrative Law Judge
Office of Administrative Hearings