BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. SAN FRANCISCO UNIFIED SCHOOL DISTRICT.	OAH Case No. 2018031098 ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

On March 23, 2018, Student filed a Due Process Hearing Request[1] (complaint) with the Office of Administrative Hearings naming District. On April 9, 2018, District filed a Notice of Insufficiency, and in the alternative a Motion to Dismiss Specific Issues as to Student's complaint.[2]

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

[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] OAH will not rule on the Motion to Dismiss and will only rule on the Notice of Insufficiency, as any other pleading must be separately filed. Student filed an Opposition to District's Notice of Insufficiency and Request to Dismiss Specific Issues, and such Opposition will be considered to be part of District's Motion to Dismiss and is thus not being considered at this time.

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's complaint delineates a procedural history in which District once served the Student with an individualized education program, placement, and related services. The complaint describes how Parents unilaterally placed Student in a Charter School/Special Education Local Plan Area not named in the complaint, which then became Student's Local Education Agency. The complaint details how Student contacted District in an attempt to re-enroll in public school, and how the District assessed Student and held an IEP. The complaint discusses how the parents participated in the IEP process with District and disagreed with the offer of placement and related services. The issue as to whether District is now the appropriate and responsible Local Education Agency, is a triable issue of fact and law which requires a Due Process Hearing to evaluate and consider the evidence through a written Decision.

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.

Therefore, Student's statement of the claims is sufficient to put District on notice and prepare a defense.

Student's proposed resolutions request reimbursement for Student's private school placement and related services beginning March 23, 2016 to the present. 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 well-defined. 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 deemed sufficient under title 20 United States Code section 1415(c)(2)(C) and Education Code section 56502, subdivision (d)(1).

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

DATE: April 16, 2018

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Deborah Myers-Cregar
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DEBORAH MYERS-CREGAR
Administrative Law Judge
Office of Administrative Hearings