BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. MORENO VALLEY UNIFIED SCHOOL DISTRICT AND CALIFORNIA SCHOOL FOR THE DEAF, RIVERSIDE,	OAH Case No. 2017010036 and 2017020619
MORENO VALLEY UNIFIED SCHOOL DISTRICT AND CALIFORNIA SCHOOL FOR THE DEAF, RIVERSIDE, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2017050017 ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

On May 25, 2017, the Office of Administrative Hearings granted Parent on behalf of Student's motion to amend her complaint. On June 5, 2017, Moreno Valley Unified School District and California School for the Deaf, Riverside, jointly filed a Notice of Insufficiency as to issue three of Student's amended 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 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 issue three alleges that she was denied educational rights because District and School for the Deaf inappropriately graduated her. The facts alleged in issue three of Student's amended complaint are sufficient to put the District and School for the Deaf on notice of the problems forming the basis of the issue. Rather, District and School for the Deaf complain that issue three falls outside the scope of OAH's jurisdiction. District and School for the Deaf's notice of insufficiency is really a motion to dismiss issue three, and should be plead as such, to permit Student an opportunity to respond to that motion.

Student's amended complaint identifies issue three and adequate related facts about the problem to permit District and School for the Deaf to respond to the amended complaint and participate in a resolution session and mediation. Therefore, Student's statement of issue three is sufficient.

ORDER

1. Issue three of the amended 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: June 12, 2017

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Paul H. Kamoroff
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PAUL H. KAMOROFF
Administrative Law Judge
Office of Administrative Hearings