BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. BAKERSFIELD CITY SCHOOL DISTRICT, GREENFIELD UNION SCHOOL DISTRICT, AND KERN COUNTY SUPERINTENDENT OF SCHOOLS.	OAH CASE NO. 2014040234 ORDER DENYING GREENFIELD UNION SCHOOL DISTRICT'S AND KERN COUNTY SUPERINTENDENT OF SCHOOL'S NOTICE OF INSUFFICIENCY

On April 02, 2014, Student filed a Due Process Hearing Request[1] (complaint) naming Bakersfield City School District (Bakersfield), Greenfield Union School District (Greenfield), and Kern County Superintendent of Schools (Superintendent).

On April 11, 2014, Greenfield and Superintendent filed a Notice of Insufficiency (NOI) as to Issue 2 of Student's complaint. For purposes of this Order, the ALJ will consider the sufficiency of the complaint only as it pertains to Greenfield and Superintendent.

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).

The complaint is deemed sufficient unless a party notifies the Office of Administrative Hearings and the other party in writing within 15 days of receiving the complaint that the party believes the complaint has not met the notice requirements.[3]

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[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(c)(2)(C); Ed. Code, § 56502, subd. (d)(1).

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 (FAPE) 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.[4] 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.[5]

The complaint provides enough information when it provides "an awareness and understanding of the issues forming the basis of the complaint."[6] 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.[7] Whether the complaint is sufficient is a matter within the sound discretion of the Administrative Law Judge.[8]

DISCUSSION

Student's complaint alleges that he is eight years old and eligible for special education under the categories of autism and speech impairment. He asserts that he was not placed in school at the time the complaint was filed, that he was dis-enrolled out of school from Bakersfield and referred to Greenfield, where he was allegedly denied placement and services that Student's parent agreed to in an October 15, 2013 individualized education program (IEP). Student asserts that at Bakersfield, Student was in a general education placement with 1:1 aide support, and that upon enrolling in Greenfield, Greenfield and Superintendent unilaterally changed his placement to a special day class, without transportation and without a 1:1 aide, and without prior written notice of the changes. Student's complaint provides the required information regarding his name, address, and the

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[4] 20 U.S.C. § 1415(b)(7)(A)(ii)(III) & (IV).

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

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

[7] *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.].

[8] 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).

fact that he was not, at the time the complaint was filed, attending school. Student's complaint also lists several proposed resolutions to the dispute with Greenfield and Superintendent, specifically, training for a 1:1 aide, a 1:1 aide for Student, placement at a non-public or private school, and compensatory education.

The complaint identifies the following issues as to Greenfield and Superintendent:

1. Did Greenfield and Superintendent deny Student a free appropriate public education by failing to offer Student a one to one aide?

2. Did Greenfield and Superintendent deny Student a free appropriate public education by failing to offer Student transportation?

4. Did Greenfield and Superintendent deprive Student's parent of the opportunity to meaningfully participate in the development of Student's educational program by unilaterally changing his placement without giving Student's parent prior written notice?

The facts alleged in Student's complaint are sufficient to put Greenfield and Superintendent on notice of each of the issues stated above forming the basis of the complaint. Student's complaint sufficiently identifies the issues and adequate related facts about the problems to permit Greenfield and Superintendent to respond to the complaint and participate in a resolution session, a mediation, and a due process hearing. Student's proposed resolutions are also sufficient.

ORDER

1. The complaint is sufficient as to the claims against Greenfield and Superintendent 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: April 15, 2014

/s/
KARA HATFIELD
Administrative Law Judge
Office of Administrative Hearings