BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2016020152
v.	ORDER DETERMINING DUE PROCESS COMPLAINT INSUFFICIENT
VALLEY VIEW CHARTER PREP.	

On February 2, 2016, Student filed a due process hearing request (complaint) with the Office of Administrative Hearings naming Valley View Charter Prep. On February 5, 2016, Valley View filed a notice of insufficiency as to Student's 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 alleges four claims in the complaint, all of which are insufficient. The issues are discussed below.

With regard to Issue 1, Student claims he was denied a free appropriate public education because Parent was denied full participation in the individualized education program development process at IEP team meetings on October 22, 2015, and December 8, 2015. Student alleges that there were agreements among the participants at these meetings, but these agreements are not contained in the IEP documents he subsequently received. He also claims that the IEP documents he received via mail "are partly falsified. This claim is insufficient because there is no statement as to what agreements were made among the parties at the two IEP team meetings that were not subsequently reported in, and made part of, the IEP. Therefore Valley View has not been put on notice as to the basis of this claim.

With regard to Issue 2, Student appears dispute eligibility determinations made at IEP team meetings. However, it is unclear as to whether Student disagrees with a determination that he was ineligible for special education, or that he was found eligible, but disagrees with the eligibility category stated in the IEP. Further, there is no information as to the dates of IEP team meetings when one or more of these determinations were made. Accordingly, this issue is insufficiently pled to put Valley View on notice as to the basis of this claim.

Issue 3 alleges that his "writing" was not assessed within 60 days of an assessment plan being signed on September 2, 2016. This date has not yet arrived. However, even if Student is referring to an assessment plan that was signed on September 2, 2015, it is unclear whether Student is claiming he should have been assessed in "writing" because he has difficulty handwriting documents due to possible motor and/or other possible processing deficits, or that he has difficulty in English language arts in the area of written expression. In addition, it is unclear whether Student is complaining that he was assessed, but it was not a timely assessment, or that he should have been assessed in one or both of these areas, but was not. This issue is insufficiently pled because it fails to put Valley View on notice as to the basis of this claim.

With regard to issue 4, Student claims that he was not provided with accommodations for testing on January 9, 2015. Reference is made to an IEP team meeting on December 8, 2015, at which accommodations were to have been discussed. It is unclear how Long Beach could have provided testing accommodations for Student in January 2016, which were

developed or discussed at an IEP team meeting eleven months earlier. Further, even if the allegation is that Valley View did not provide him with accommodations developed in December 2015, for testing in January 2016, no information is provided with a description of accommodations that were to have been provided, and facts supporting a claim that they were not provided. This issue is insufficiently pled because it fails to put Valley View on notice as to what the claim is, and the basis of this claim.

A parent who is not represented by an attorney may request that OAH provide a mediator to assist the parent in identifying the issues and proposed resolutions that must be included in a complaint. (Ed. Code, § 56505.) Parents are encouraged to contact OAH for assistance if they intend to amend their due process hearing request.

ORDER

1. Student's complaint is insufficiently pled under section title 20 United States Code 1415(c)(2)(D).

2. Student shall be permitted to file an amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II).[1]

3. The amended complaint shall comply with the requirements of title 20 U.S.C. section 1415(b)(7)(A)(ii), and shall be filed not later than 14 days from the date of this order.

4. If Student fails to file a timely amended complaint, the complaint will be dismissed.

5. All dates previously set in this matter are vacated.

DATE: February 10, 2016

DocuSigned by:
Rebecca Freie
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REBECCA FREIE
Administrative Law Judge
Office of Administrative Hearings

[1] The filing of an amended complaint will restart the applicable timelines for a due process hearing.