BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. YOSEMITE UNIFIED SCHOOL DISTRICT and MADERA-MARIPOSA COUNTIES SPECIAL EDUCATION LOCAL PLAN AREA.	OAH Case No. 2018120475 ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

On December 12, 2018, Student filed a due process hearing request [1] (complaint) with the Office of Administrative Hearings naming Yosemite Unified School District and Madera-Mariposa Counties Special Education Local Plan Area. On December 27, 2018, 2018, the Local Plan 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.)

[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).

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

The Local Plan claims not to understand the first paragraph of Student's complaint which explains how he was found eligible for special education in 2015. This paragraph appears to be part of the complaint for historical purposes. Student explains he was found eligible for special education under the category of emotional disturbance in 2015, and was placed in a special day class at a program operated by the Local Plan, at a school within the boundaries of the local plan. The school district where the special day class is located is not named, but that does not seem to be a necessary fact.

Student, in the second paragraph of the complaint, states that on November 19, 2018, an IEP team, at a meeting, determined that Student was no longer eligible for special education and "school staff" recommended that he be returned to his home school and Parent disagreed with this recommendation. Student talks about a recent violent incident in the third paragraph in which he destroyed property at the school.

The Local Plan complains in its notice of insufficiency that because it is not specifically named as the responsible party for recommending return to student's home school, and named as the responsible party for the violent incident a few weeks after the November 2018 recommendation, the complaint is insufficiently plead. However, because Student is placed in a Local Plan program, both his home school district, Yosemite, and the Local Plan are jointly responsible for providing him with a FAPE. There is no need to specifically name either one as a responsible party.

The Local Plan also challenges Student's proposed resolutions which call for him to remain placed in the Local Plan's program, asks that he be provided with full day behavior support from a nonpublic agency, and that he be provided with compensatory education. The Local Plan complains that this results in the complaint being insufficiently plead because it cannot be determined which educational agency, i.e. the Local Plan or Yosemite, is being asked to provide this relief. 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).) 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 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.

DATE: December 28, 2018

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