BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. ORINDA UNION SCHOOL DISTRICT.	OAH Case No. 2018110674 ORDER DETERMINING DUE PROCESS COMPLAINT SUFFICIENT

On November 15, 2018, Student filed a Request for Due Process Hearing with the Office of Administrative Hearings, naming Orinda Union School District. On November 30, 2018, Orinda 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(c)(F)(2)(A).) 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)(ii). (20 U.S.C. § 1415(b)(7)(B).)

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 complaint contains one issue with nine sub-issues. The single issue alleges Orinda failed to offer Student with a free appropriate public education during the 2017-2018 and 2018-2019 regular school years, and the 2018 extended school year. The sub-issues contain specific allegations as to how Orinda failed to offer Student a FAPE, including that Orinda failed to: conduct a comprehensive psychoeducational evaluation in all areas of suspected disability; offer an appropriate placement; offer occupational therapy and assistive technology services; develop measureable goals in all areas of need; adequately report on progress; offer accommodations that meet Student's unique needs; offer extended school year services; and allow Parents to meaningfully participate in the individualized education program process. Additionally, the complaint contains several pages of facts that further clarify the issue and sub-issues. Finally, the complaint contains proposed resolutions.

The issues and facts as stated are sufficient to provide Orinda with an awareness of the issues forming the basis of the complaint. Orinda has sufficient information to know how to prepare for a resolution session, mediation, and/or due process hearing.

Accordingly, Student's complaint is sufficient under title 20 United States Code section 1415(b)(7)(A)(ii). All dates in the matter shall proceed as scheduled.

IT IS SO ORDERED.

DATE: November 30, 2018

DocuSigned by:
Tara Doss
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TARA DOSS
Administrative Law Judge
Office of Administrative Hearings