BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. PASO ROBLES JOINT UNIFIED SCHOOL DISTRICT.	OAH CASE NO. 2013071184 ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

On July 25, 2013 Parent on behalf of Student (Student) filed a Due Process Hearing Request[1] (complaint) naming Paso Robles Joint Unified School District (District).

On July 30, 2013, District filed a Notice of Insufficiency (NOI) as to Issue One (a through g), and Issue Two (a through g) of Student's complaint. Student's complaint contained two issues, Issue One (a through m), and Issue Two (a through z, and aa through cc). District's NOI did not address Student's complaint. Other than the pleading caption, District's NOI was directed at another (unknown) complaint. District's NOI set forth what it maintained was the substance of the challenged sections of Issues One and Two, but which in fact were not contained in Student's complaint. District also filed an NOI as to what it referred to as Issue Three (a-g), which it described as an allegation concerning District's failure to adequately assess Student in academics, behavior, social emotional development, occupational therapy and daily living skills. However, Student's complaint filed with OAH did not contain an Issue Three, and District's purported Issues Three (a-g), and, other than claims concerning a Functional Analysis Assessment, and Woodcock Johnson, Third Edition assessment, were not referenced in Student's Issues Two and Three. Despite District's failure to address Student's complaint, in the interest of judicial economy, this Order will address District's general challenge of insufficiency.

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

[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).

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 (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.[3] 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.[4]

The complaint provides enough information when it provides "an awareness and understanding of the issues forming the basis of the complaint."[5] 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.[6] Whether the complaint is sufficient is a matter within the sound discretion of the Administrative Law Judge.[7]

DISCUSSION

The facts alleged in Student's complaint are sufficient to put the District on notice of the issues forming the basis of the complaint. Student's complaint identifies the issues and adequate related facts about the problem to permit District to respond to the complaint and participate in resolution session and mediation. Student's complaint contains a very detailed and specific nineteen page factual statement, describing Student's diagnoses, eligibility,

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[3] 20 U.S.C. § 1415(b)(7)(A)(ii)(III) & (IV).

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

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

[6] *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.].

[7] 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).

unique needs, and chronology of events, which form the basis of his claims. District maintains that Student is required at the pleading stage to provide extensive facts supporting each of his claims. On the contrary, at the pleading stage, Student is only required to set forth facts sufficient to notify District of its claims, and proposed resolutions to the extent known and available at the time, which he did. Student has the burden of proof at hearing, not at the pleading stage. Accordingly, Student's complaint is sufficient.

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.

Dated: July 30, 2013

/s/

EILEEN M. COHN
Administrative Law Judge
Office of Administrative Hearings