BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

LAS LOMITAS ELEMENTARY SCHOOL DISTRICT AND DESIGN TECH HIGH SCHOOL.

OAH CASE NUMBER 2020010275

ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

On January 09, 2020, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Design Tech High School, San Mateo Union High School District and Las Lomitas Elementary School District. On January 13, 2020, Design Tech High School filed a Notice of Insufficiency as to the complaint. On January 15, 2020, Student dismissed San Mateo Union High School District as a party.

APPLICABLE LAW

The named parties have the right to challenge the complaint's sufficiency. (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: (1) describes the problem relating to the proposed change regarding the Student's identification, evaluation, or educational placement, or providing the Student a free appropriate public education; (2) includes facts about the problem; and (3) includes a proposed resolution 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

The facts alleged in Student's complaint are sufficient. Student's complaint identifies the issues and adequate facts about the problem to permit Design Tech High School to respond and participate in a resolution session and mediation.

The complaint alleges that Student started at Design Tech High School for 9th grade in the 2018-2019 school year. The complaint describes the psychoeducational assessment for special education administered by Design Tech High School, its determination of eligibility under the category of Other Health Impairment, the individualized educational plan, referred to as an IEP, developed by Design Tech High School and its offer of a free appropriate public education, referred to as FAPE. The complaint further alleges the individualized education plan contained no measurable present levels of performance and asserts that the offer of FAPE was insufficient.

The complaint states that following an independent educational assessment of Student in March 2019, the IEP team met on August 21, 2019, to review the independent educational assessment, at which time Design Tech High School allegedly rejected the recommendations of the independent assessor concerning an alternative residential placement as well as additional services and supports. Parents subsequently privately placed Student on August 28, 2019, at Second Nature, a residential placement program.

According to the complaint, Design Tech High School completed an educationally related mental health assessment and presented the results to Parents on December 4, 2019, at an IEP team meeting and made an offer of FAPE, which mirrored the January 2019 offer. It further alleges that in January 2020, Design Tech High School conducted further assessments and interviews of Student, his counselors and teachers at his current private placement, Elevations, without obtaining Parents' consent.

Student alleges that Design Tech High School failed to provide Student a FAPE during the 2018-2019 and 2019-2020 school years relating to its failure to establish meaningful present levels of performance, offer appropriate goals, and provide adequate supports and services to allow Student to access his education. The complaint contains sufficient information to permit Design Tech High School to prepare for the hearing and participate in resolution sessions and mediation.

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).) The proposed resolutions stated in Student's complaint are well-defined. The complaint seeks reimbursement of tuition costs for private placement and supplemental services and supports provided by Parents to support Student's access to his curriculum. It also requests that Design Tech High fund an independent educational evaluation for an educationally related mental health assessment. Therefore, Student has met the statutorily required standard regarding proposed resolutions.

Design Tech High School points out several sections in the complaint where there are missing phrases and typographical errors. However, the complaint contains sufficient specificity to provide Design Tech High School an awareness and understanding of the issues forming the basis of the complaint. Furthermore, Design Tech High School references a statement concerning Las Lomitas during the 2018-2019 school year as being a mistake, but by carefully reviewing the allegation it is evident the allegation intentionally mentioned Las Lomitas and its purported failure to provide records to Design Tech High School leading up to the 2018-2019 school year.

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.

IT IS SO ORDERED.

DATED: January 17, 2020

DocuSigned by:
Jennifer Kelly
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Jennifer Kelly
Administrative Law Judge
Office of Administrative Hearings