BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. SONOMA COUNTY OFFICE OF EDUCATION; COTATI-ROHNERT PARK UNIFIED SCHOOL DISTRICT.	OAH CASE NO. 2014010655 ORDER GRANTING NOTICES OF INSUFFICIENCY BY SONOMA COUNTY OFFICE OF EDUCATION AND COTATI-ROHNER PARK UNIFIED SCHOOL DISTRICT

On January 17, 2014 Parent on Student's behalf filed a Due Process Hearing Request[1] (complaint) with the Office of Administrative Hearings (OAH) naming Sonoma County Office of Education (SCOE) and Cotati-Rohnert Park Unified School District (District). On January 21, 2014, SCOE and District filed timely Notices of Insufficiency (NOI) as to Student's complaint. This Order addresses both NOIs, which are granted for the reasons discussed below.

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 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

[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).

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

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

Student's complaint is handwritten on a standard OAH form, and consists of six "problems." Parent generally alleges 1) that communication between Parent, SCOE and District is "not good"; 2) District has treated Parent unfairly and has retaliated against her; 3) SCOE disclosed Parent's phone number to a police officer and denied doing so; 4) no relationship of trust exists between Parent and District, because District will not consider Parent's concerns and retaliates against Student because of Parent's concerns; 5) SCOE has not given Student time to adjust to "his environment" and he has been moved four times in two years; and 6) the respondents have ignored that Student is a danger to himself. The complaint seeks as proposed resolutions home schooling, assignment of a "Case Attorney" for Parent, and communication between attorneys instead of between Parent and District/SCOE.

The complaint is not sufficient in all respects. First, the complaint does not state any facts that identify problems 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. The complaint alleges no facts identifying

---

[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).

dates, which school years are at issue, which individualized education programs (IEP) are at issue, when or what District or SCOE individually or collectively did in connection with Student's educational program to deny him a FAPE, or any other facts that sufficiently clarify each of the "problems" listed in the complaint. Instead, problems one through five vaguely relate to Parent's relationship with District and SCOE, assertions of discrimination and bad communications, but they do not state facts that relate to any specific IEP for Student. Problem six asserts that "Student continues to run from there" and is a danger to himself without providing any supporting facts, such as what place he is running from, when it happened, and whether District or SCOE is responsible.

In summary, the complaint, as a whole, does not state enough specific facts to put District or SCOE on notice of any issues so that they may prepare for a resolution session, mediation and hearing. Additionally, with the exception of Student's proposed resolution for home schooling, Student's proposed resolutions appear to relate to Parent and her relationship with District and SCOE, and not to Student's educational program.

Accordingly, District's and SCOE's NOI is granted. Student's parent may amend the complaint in order to include more of the required details. A parent who is not represented by an attorney may request that the Office of Administrative Hearings (OAH) provide a mediator to assist the parent in identifying the issues and proposed resolutions that must be included in a complaint [8] Parent is encouraged to contact OAH for assistance if she intends to amend the due process hearing request.

8 Ed. Code, § 56505.

ORDER

1. Student's complaint is insufficiently pled as to all named respondents 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).[9]

3. The amended complaint shall comply with the requirements of Title 20 United States Code section 1415(b)(7)(A)(ii), and shall be filed not later than 14 calendar days from the date of this order.

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

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

Dated: January 23, 2014

/s/
ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings

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