BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

SANTA ROSA ACADEMY.

OAH CASE NUMBER 2020100133

ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

NOVEMBER 18, 2020

On October 2, 2020, Parent on behalf of Student filed a due process hearing request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Santa Rosa Academy. On October 7, 2020, Santa Rosa Academy filed a notice of insufficiency as to the complaint. On October 8, 2020, OAH found Student's complaint to be insufficient and gave Student 14 days to file a legally sufficient amended complaint.

On October 15, 2020, Student filed an amended complaint. On October 21, 2020, Santa Rosa filed a timely notice of insufficiency as to the amended complaint. On

October 26, 2020, OAH found Student's amended complaint to be insufficient and gave Student 14 days to file a legally sufficient second amended complaint.

On November 9, 2020, Student filed a second amended complaint. On November 16, 2020, Santa Rosa filed a timely notice of insufficiency as to the amended complaint.

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 second amended complaint are sufficient. Student's complaint identifies the issues and adequate facts about the problem to permit Santa Rosa to respond and participate in a resolution session and mediation. Student cured the defects in the original and amended complaints by adding specific facts relating to an Individual Education Program, referred to as IEP, dated October 17, 2020. In second amended Issue One, Student alleges that Student's IEP of October 17, 2020, is not being implemented with respect to goals, services, and accommodations. In second amended Issue Two, Student alleges that school policies violated Student's rights to take tests on campus, which led to a lack of progress in reading. In second amended Issue Three, Student alleges Santa Rosa has not provided accommodations necessary to allow Student to take tests, which impacted his reading and a potential diagnosis of dyslexia. Therefore, Students statement of the three claims 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.

IT IS SO ORDERED.

Cararea Lucier

Cararea Lucier
Administrative Law Judge
Office of Administrative Hearings