BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. LOS ANGELES UNIFIED SCHOOL DISTRICT AND GLENDALE UNIFIED SCHOOL DISTRICT.	OAH Case No. 2017110037 ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

On November 1, 2017, Parent on behalf of Student filed a Due Process Hearing Request[1] (complaint) with the Office of Administrative Hearings naming Los Angeles Unified School District and Glendale Unified School District. On October 31, 2017, Glendale timely filed a Notice of Insufficiency as to Student's complaint.[2]

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(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 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.)

[1] A request for a due process hearing under Education Code section 56502 is the due process complaint notice required under title 20 U.S.C. section 1415(b)(7)(A).

[2] Glendale was served with Student's complaint on October 23, 2017.

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 attended a Glendale preschool for half a day and the other half at a private preschool during the 2016-2017 school year. Student was accompanied by a one-to-one behavior aide. The complaint describes the public preschool class as "special day type school AKA Special education." The complaint states that while Student "did have an occasional outburst, he did make fantastic progress and had the ability to stay on task with his academics when give [*sic*] the appropriate supports."

The complaint's Issue 3 alleges Student does not have accurate assessments in the areas of psychoeducational, speech and language, or functional behavior. Issue 4 claims that Student's IEP was inappropriate in that it failed to provide Student with an appropriate aid support. Both Issues 3 and 4 allege violations on the part of both Los Angeles and Glendale.[3]

Glendale challenges the sufficiency of Issues 3 and 4 only. Glendale contends that Issue 3 is insufficiently pled as it fails to identify or describe the inaccuracies of any assessments conducted by Glendale and fails to provide factual allegations as to how Glendale failed to properly assess Student or what areas of suspected disability Glendale failed to assess. Additionally, Glendale argues that Issue 4 is also insufficiently pled as it fails to identify the IEP at issue and which school district developed the IEP.

Student's complaint is insufficiently pled in that it fails to provide sufficient facts relating to Glendale's alleged violations. The compliant does not identify the assessments or the IEP which Student claims Glendale failed to properly conduct or develop. The complaint

[3] The complaint lists four issues. Issues 1 and 2 are claims against Los Angeles Unified School District only.

further fails to provide sufficient factual allegations describing Glendale's alleged failure to properly assess Student.

Even when construed liberally, the complaint falls short of providing Glendale with an awareness and understanding as to the issues forming the basis of the complaint against it. As a result, the complaint does not provide Glendale with sufficient information to adequately prepare for and participate in a resolution session, mediation or hearing. Therefore, Student's complaint is insufficient as to Issues 3 and 4 as it relates to Glendale. Student's complaint raises no other claims against Glendale.

Among Student's proposed resolutions are requests for compensatory education, reimbursement to Parent for a private assessment, and assessments of Student. 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 requests that meet the statutorily required standard of stating a resolution to the extent known and available to Student at the time.

ORDER

1. Issues 3 and 4 of Student's complaint are insufficiently pled under title 20 United States Code section 1415(c)(2)(D) as it relates to Glendale Unified School District.

3. Student shall be permitted to file an amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II).[4]

4. The amended complaint shall comply with the requirements of title 20 U.S.C. section 1415(b)(7)(A)(ii), and shall be filed not later than 14 days from the date of this order.

5. If Student fails to file a timely amended complaint, Glendale Unified School District shall be dismissed as a party and the hearing shall proceed only against Los Angeles Unified School District on the issues in Student's complaint.

DATE: November 3, 2017

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Rommel P. Cruz
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ROMMEL P. CRUZ
Administrative Law Judge
Office of Administrative Hearings

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