BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. ANTELOPE VALLEY UNION SCHOOL DISTRICT AND LOS ANGELES COUNTY OFFICE OF EDUCATION.	OAH CASE NO. 2013090256 ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

On September 9, 2013, Parent filed a Due Process Hearing Request (complaint) on behalf of Student[1] naming Antelope Valley Union School District (Antelope Valley) and the Los Angeles County Office of Education (County).

On September 20, 2013, Antelope Valley filed a Notice of Insufficiency (NOI) as to Student's complaint. On September 24, 2013, OAH issued an Order finding that Student's complaint was insufficiently pled and permitted Student to file an amended complaint. Student filed an amended complaint on October 8, 2013. On October 23, 2013, Antelope Valley filed an NOI after business hours. On October 24, 2013, OAH issued an Order denying Antelope Valley's motion as untimely as the NOI was deemed filed on October 24, 2013.

On January 27, 2014, Student filed a Motion to Amend Due Process Complaint that was served with a Proposed (Second) Amended Complaint. During a telephonic prehearing conference on February 3, 2014, Antelope Valley and County stipulated to permit Student to file a second amended complaint. OAH issued an order deeming the complaint filed on February 3, 2014.

On February 7, 2014, Antelope Valley filed an NOI as to Student's second amended complaint. Antelope Valley alleges the complaint is insufficient only as to Student's proposed resolution of Issue 1. Accordingly, only the sufficiency of the proposed resolution will be addressed herein.

[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).

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 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 Individuals with Disabilities Education Act 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]

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[2] 20 U.S.C. § 1415(b) & (c).

[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).

DISCUSSION

Student's proposed resolution of Issue 1 states that Antelope Valley and County failed to offer Student a FAPE during the two years prior to filing the complaint and that as a result "…he is entitled to compensatory education, as will be established at hearing."

Antelope Valley asserts that Student's requested remedy of compensatory education is insufficient because it does not specify the type or amount of services requested. 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).) Additional specificity of the remedy requested may be the subject of a prehearing conference or mediation. However, Student has met the minimum statutorily required standard of stating a resolution to the extent known and available at the time.

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: February 10, 2014

/s/

JOY REDMON
Administrative Law Judge
Office of Administrative Hearings