BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. MORGAN HILL UNIFIED SCHOOL DISTRICT.	OAH Case No. 2018041179 ORDER DETERMINING STUDENT'S COMPLAINT SUFFICIENT

On April 26, 2018 Student filed a Request for Due Process Hearing with the Office of Administrative Hearings, naming Morgan Hill Unified School District. On May 11, 2018, District filed a Notice of Insufficiency as to Issue 7 of Student's complaint.

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.)

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's complaint contains seven issues, with several sub-issues. District specifically challenges the sufficiency of Issue Seven, which involves whether District denied Student a FAPE for the 2018-2019 school year, by failing to offer appropriate placement and services at a March 15, 2017 individualized education program team meeting and failing to convene an annual IEP team meeting on or before September 2, 2017. Issue Seven sets forth the nature of the problem related to the provision of FAPE to Student; and the complaint contains facts relating to the problem and proposed resolutions. Specifically, the complaint alleges District has failed to convene an IEP for Student since Parents' unilaterally enrolled Student in a private program in April 2017; and as a result, District has failed to offer Student placement and services for the 2018-2019 school year. Student's complaint contains sufficient information to allow District to prepare for participation in a resolution session, mediation, and due process hearing. Further, the complaint contains sufficient information to put District on notice of the issues forming the basis of the complaint.

Therefore, Student's complaint, specifically Issue Seven, is sufficient.

ORDER

1. Student's complaint is sufficient under title 20 United States Code section 1415(b)(7)(A)(ii).

2. All currently scheduled dates shall proceed as scheduled.

DATE: May 14, 2018

DocuSigned by:
Tara Doss
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TARA DOSS
Administrative Law Judge
Office of Administrative Hearings