BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

HEMET UNIFIED SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NUMBER 2020030710

ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT; DENIAL OF MOTION TO DISMISS AND MOTION FOR SANCTIONS

APRIL 2, 2020

On March 19, 2020, Hemet Unified School District filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Student. On March 27, 2020, Student filed a Notice of Insufficiency as to the complaint. Also included in the Notice of Insufficiency was a Motion to Dismiss and Motion for Sanctions.

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 Hemet Unified School District's complaint are sufficient. Hemet Unified School District's complaint identifies the issues and adequate facts about the problem, the adequacy of Hemet Unified School District's February 27, 2020 Individualized Education Program, to permit Student to respond and participate in mediation.

Therefore, Hemet Unified School District's statement of its two issues is sufficient. Regarding Student's Motion to Dismiss and Motion for Sanctions, these motions cannot be filed as a joint motion with the Notice of Insufficiency and need to be filed separately. Accordingly, Student's Motion to Dismiss and Motion for Sanctions are denied without prejudice.

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.

3. Student's Motion to Dismiss and Motion for Sanctions are denied without prejudice.

IT IS SO ORDERED.

DocuSigned by:
Judith Pasewark
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Judith Pasewark

Administrative Law Judge

Office of Administrative Hearings