BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: PARENT ON BEHALF OF STUDENT, v. MURRIETA VALLEY UNIFIED SCHOOL DISTRICT,	OAH Case No. 2017030956
MURRIETA VALLEY UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2017071030 ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

On March 20, 2017, Student filed a Due Process Hearing Request[1] (complaint) with the Office of Administrative Hearings naming Murrieta Valley Unified School District. On July 25, 2017, District filed a complaint naming Student. On August 7, 2017, Student filed a response and a notice of insufficiency as to District's complaint. On August 8, 2017, District filed an opposition to Student's motion to dismiss.[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

[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] District construed Student's response and notice of insufficiency to be a motion to dismiss. OAH considers Student's response and notice of insufficiency to be a notice of insufficiency, not a motion to dismiss. If Student intended his response and notice of insufficiency to be a motion to dismiss, he will need to file a separate motion to dismiss.

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

District alleges two issues and two proposed resolutions in the complaint, which are all sufficiently pled to put Student on notice of the issues forming the basis of the complaint. District's complaint identifies the issues and adequate related facts about the problem to permit Student to respond to the complaint.

Issue one asks if the November 29, 2016 individualized education program, which was amended on January 12, 2017, April 18, 2017, and June 1, 2017, offers Student a FAPE. District lists the specific IEP in question, and facts related to the IEP team meetings.

Issue two is the proposed resolution for issue one, and asks for an order that District may implement the November 29, 2016 IEP, which was amended on January 12, 2017, April 18, 2017, and June 1, 2017, without parental consent.

Issue three asks if District may evaluate Student, pursuant to the January 18, 2017 assessment plan, without parental consent. District lists the specific assessment plan, facts relating to the assessment plan, and the reasons why it wants to evaluate Student.

Issue four is the proposed resolution to issue three, and asks for an order that if Student is not made available for the assessment that District is not obligated to provide special education services.

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 two proposed resolutions stated in District's complaint are well-defined.

ORDER

1. Issues one and three of District's complaint are sufficient under title 20 U.S.C. section 1415(b)(7)(A)(ii).

2. Issues two and four are proposed resolutions.

3. All mediation, prehearing conference, and hearing dates in this matter are confirmed.

DATE: August 9, 2017

DocuSigned by:
Linda Johnson
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LINDA JOHNSON
Administrative Law Judge
Office of Administrative Hearings