BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. RIM OF THE WORLD UNIFIED SCHOOL DISTRICT, EMPIRE SPRINGS CHARTER SCHOOL, AND ALTA VISTA SOUTH PUBLIC CHARTER. .	OAH Case No. 2018031154 ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT AS TO EMPIRE SPRINGS CHARTER SCHOOL

On March 26, 2018, Student filed a Due Process Hearing Request[1] (complaint) with the Office of Administrative Hearings naming Rim of the World Unified School District, Empire Springs Charter School, and Alta Vista South Public Charter. Student alleges that she has resided in District at all relevant times, and attended ninth grade in District from August to December, 2016. Student then enrolled in Empire Springs from January 2017 to June 2017, and in Alta Vista for the 2017-2018 school year. Student alleges that she had a history of often missing school, being unable to make educational progress, and mental health issues requiring psychiatric hospitalizations, all of which were impacting her ability to access her education.

As to Empire Springs, Student alleges that Parents in January 2017 asked Empire Springs to assess Student's need for special education to address her academic, behavioral, and social-emotional deficits. Empire Springs assessed Student's psychoeducational status and needs in the spring of 2017, at which time Student was missing school, refusing to complete any work, and failing nearly all of her classes. Empire Springs held Student's initial individualized education program team meeting in June 2017. Student alleges that Empire Springs found her eligible for special education under the category of emotional disturbance, but denied her a free appropriate public education because the June 2017 IEP: (i) was not timely; (ii) was blank in the sections for goals, accommodations, special education service options, FAPE offer, and graduation plan and therefore failed to provide a firm written offer of FAPE; (iii) offered Student an inappropriate general education placement, with no supports; (iv) failed to offer Student a behavior support plan or functional behavior analysis; (v) offered Student no transition plan; and (vi) failed to offer Student any extended school year services.

[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).

As a proposed resolution, Student requests an order directing Empire Springs to provide Student compensatory education in the form of intensive academic instruction, mental health services, and reimbursement of expenditures Parents made to provide Student private services. Student also requests an order directing Empire Springs to provide Student placement in a residential treatment center, and behavior services. Student contends that Alta Vista should provide Student the same remedies based on its alleged acts or omissions that denied Student a FAPE during the 2017-2018 school year.

On April 10, 2018, Empire Springs filed a timely Notice of Insufficiency as to Student's complaint. Empire Springs contends that the complaint is insufficient because Student's proposed resolution does not identify whether Empire Springs or Alta Vista is responsible for each proposed remedy. Empire Springs also contends the complaint does not plead sufficient facts to demonstrate that Empire Springs should be responsible for providing Student a residential placement.

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

The facts alleged in Student's complaint are sufficient to put Empire Springs on notice of the issues forming the basis of the complaint. The complaint contains allegations that reasonably specify Empire Springs' alleged acts or omissions, and provide Empire Springs sufficient facts to understand the issues, respond to the complaint, and prepare for resolution sessions and mediation.

Regarding proposed resolutions, the plain language of the complaint proposes that Empire Springs and Alta Vista each be held responsible for the proposed remedies summarized above. Empire Springs contends that the facts alleged do not support an order directing Empire Springs to provide Student a prospective residential placement. However, this argument that Student's proposed remedy is not supported by the facts is not a basis for a notice of insufficiency, which requires only that the proposed remedy be clearly stated – not that it be legally or equitably appropriate. Student has met the statutorily required standard of stating a proposed resolution to the extent known and available to her at the time.

ORDER

1. The complaint is sufficient as to Empire Springs Charter School 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.

DATE: April 13, 2018

DocuSigned by:

ROBERT G. MARTIN
Administrative Law Judge
Office of Administrative Hearings