BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENTS ON BEHALF OF STUDENT, v. MONROVIA UNIFIED SCHOOL DISTRICT; WEST SAN GABRIEL VALLEY SELPA.	OAH CASE NO. 2013060142 ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT; ORDER ON MOTION TO DISMISS

On May 28, 2013, Student's parents on behalf of Student (Student) filed a due process hearing request[1] (complaint) naming the Monrovia Unified School District (District) and the West San Gabriel Valley Special Education Local Plan Area (SELPA).

On June 7, 2013, the District filed a notice of insufficiency (NOI) as to Student's complaint. The District also included a motion to dismiss Student's complaint in its NOI papers. For the reasons stated below, that motion to dismiss is moot.

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

[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).

[2] 20 U.S.C. § 1415(b) & (c).

[3] 20 U.S.C. § 1415(b)(7)(A)(ii)(III) & (IV).

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 IDEA 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]

DISCUSSION

Student's complaint consists of a narrative of facts without any delineated issues. It is difficult to determine which individualized education program (IEP) offer(s) Student is challenging and the specific basis for the challenge. Student has not alleged issues specifying which portion(s) of the District's IEP offer(s) denied Student a FAPE and on what basis there was a denial of FAPE. A District is not required to sift through narrative facts to try to guess the basis for a complaint.

Student's complaint is insufficiently pled in that it fails to provide the District with the required notice of a description of the problem and the facts relating to the problem.

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[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).

ORDER

1. Student's complaint is insufficiently pled under Title 20 United States Code section 1415(c)(2)(D).

2. Student shall be permitted to file an amended complaint under Title 20 United States Code section 1415(c)(2)(E)(i)(II).[8]

3. The amended complaint shall comply with the requirements of Title 20 United States Code section 1415(b)(7)(A)(ii), and shall be filed not later than 14 days from the date of this order.

4. If Student fails to file a timely amended complaint, the complaint will be dismissed.

5. All dates previously set in this matter are vacated.

6. In light of the order granting leave to amend, the District's motion to dismis is moot.

Dated: June 10, 2013

/s/
SUSAN RUFF
Administrative Law Judge
Office of Administrative Hearings

[8] The filing of an amended complaint will restart the applicable timelines for a due process hearing.