BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

MANHATTAN BEACH UNIFIED SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NUMBER 2019080889

ORDER DETERMINING DUE PROCESS COMPLAINT SUFFICIENT

On August 23, 2019, Manhattan Beach Unified School District filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Student by and through his mother. Both Mother and Father were separately served with the complaint by U.S. mail and by email. On September 5, 2019, Mother notified OAH that she did not live at the address stated on the proof of service of the complaint and did not receive the complaint from Manhattan Beach Unified. She provided a new address, and OAH sent a copy of the complaint and the OAH Scheduling Order to both parents at their respective current addresses by overnight delivery service, which confirmed delivery.

The undersigned Administrative Law Judge held a telephonic prehearing conference on September 9, 2019. Both parents and counsel for Manhattan Beach Unified participated. Both parents acknowledged that they shared legal custody of, educational rights for, Student on the record during the prehearing conference.

On September 11, 2019, Mother timely filed a Notice of Insufficiency as to the complaint, and included the equivalent of a motion to dismiss Father from the matter. This Order only addresses the sufficiency of the complaint.

Mother's motion to dismiss Father from the action is not appropriately addressed in a Notice of Insufficiency and will be addressed in a separate order. OAH allows an opposing party to respond to a motion to dismiss within three business days of filing. Accordingly, Manhattan Beach and Father have three business days from the date of this order, to file a written response to Mother's motion to dismiss Father as an improper party.

APPLICABLE LAW AND DISCUSSION

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).

The complaint is deemed sufficient unless a party notifies OAH and the other party in writing within 15 days of receiving the complaint that the party believes the complaint has not met the notice requirements. (20 U.S.C. § 1415(c)(2)(C); Ed. Code, § 56502, subd. (d)(1).)

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.)

Mother's Notice of Insufficiency asserts that the complaint is insufficient because Manhattan Beach did not give proper notice of the complaint by correctly serving it on Mother, with whom Student allegedly resides, at her current address. Mother also contends the complaint only names Student by and through Mother, and Manhattan Beach Unified violated Student's right of privacy by also serving the complaint on Father. Mother seeks an order finding the complaint insufficient due to improper notice, or, alternatively, an order dismissing Father as a party.

The complaint on its face is sufficient. It 1) describes the problem relating to the proposed change regarding Student's educational placement, or relating to providing

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 Manhattan Beach Unified at the time. It is sufficient to put Student on notice of the claims, and proposed resolutions.

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. Mother's motion to dismiss Father as a party will be addressed in a separate order.

DATED: September 12, 2019

DocuSigned by:
Adrienne L. Krikorian
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Adrienne L. Krikorian
Administrative Law Judge
Office of Administrative Hearings