BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2016060676
v.	ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT
SAUGUS UNION SCHOOL DISTRICT.	

On June 9, 2016, Student filed a Due Process Hearing Request[1] (complaint) with the Office of Administrative Hearings naming Saugus Union School District. On June 9, 2016, Saugus filed a Notice of Insufficiency which OAH granted on June 15, 2016. Student was afforded the opportunity to amend his complaint. Student filed an amended complaint on July 15, 2016. On July 15, 2016, Saugus filed a Notice of Insufficiency as to Student's amended complaint.

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.)

[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).

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 amended complaint are sufficient to put Saugus on notice of the issues forming the basis of the complaint. Student's amended complaint identifies the issues and adequate related facts about the problems to permit Saugus to respond to the complaint and participate in a resolution session and mediation.

Student alleges that he has autism and has been receiving specialized services from Saugus since 2008. Student identifies as an issue for hearing that Saugus denied him a free appropriate public education by inappropriately utilizing restraints which resulted in physical injuries and led to Student missing school due to emotional distress. Student further alleges his March 25, 2015 behavior intervention plan does not authorize the use of restraints. The specific time frame for this issue can be clarified at the prehearing conference. Given the Individuals with Disabilities Education Act's liberal pleading requirements, this issue is found sufficient.

Student additionally alleges that Saugus denied him a FAPE by failing to implement his individualized education program in terms of providing educational instruction and failing to implement his academic goals for the 2015-2016 school year. This issue is sufficiently pled.

Student next alleges that Saugus denied him a FAPE as evidenced by his failure to meet any of his academic goals for the 2015-2016 school year, and his failure to meet half of his goals for the 2014-2015 and 2013-2014 school years. This issue is found sufficient.

Student also alleges he was denied a FAPE when Saugus failed to report on his grades for the first reporting period. The date of this reporting period can be clarified at the prehearing conference. This issue is sufficient.

Student identifies as a final issue for hearing Saugus' failure to ensure the attendance of a general education teacher at the May 2016 IEP team meeting, which Student alleges denied him a FAPE. This issue is sufficiently pled.

Therefore, Student's amended complaint is sufficient.

Student's proposed resolution requests that Student no longer attend a District school, and that Saugus provide a compensatory education fund of $48,000 for Parent to provide Student with tutoring, speech services, mental health services, and applied behavior analysis 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).) Student has met the statutorily required standard of stating a resolution to the extent known and available to him at the time.

ORDER

1. Student's amended 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.

DATE: July 18, 2016

DocuSigned by:
Theresa Ravandi
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THERESA RAVANDI
Administrative Law Judge
Office of Administrative Hearings