BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

CAPISTRANO UNIFIED SCHOOL DISTRICT AND CAPISTRANO SELPA.

OAH CASE NUMBER 2019110519

ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

On November 14, 2019 Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Capistrano Unified School District and Capistrano SELPA. On November 26, 2019, Capistrano SELPA filed a Notice of Insufficiency as to the complaint requesting dismissal from Student's complaint.

APPLICABLE LAW

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).

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.)

DISCUSSION

The facts alleged in Student's complaint are sufficient. Student's complaint identifies the issues and adequate facts about the problem to permit Capistrano Unified

School District and Capistrano SELPA to respond and participate in a resolution session and mediation.

A determination of sufficiency is not an appropriate vehicle to determine whether Capistrano SELPA is a proper party to this action. Thus, no determination is made to that request.

Student presented four issues. Student's first issue alleges Capistrano Unified and Capistrano SELPA denied Student a free appropriate public education by interfering in Parent's ability to fully participate in the IEP process. Student's second issue alleges Capistrano Unified and Capistrano SELPA denied Student a FAPE by failing to design an IEP specifically designed to meet Student's unique needs. Student further alleges Capistrano Unified and Capistrano SELPA failed to offer Student an IEP to specifically designed to meet Student's needs. Finally, Student alleges Capistrano Unified and Capistrano SELPA failed to implement Student's IEP. All issues are supported with a discrete timeline and facts sufficient to provide Capistrano Unified and Capistrano SELPA an awareness of the issues.

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.

IT IS SO ORDERED.

DocuSigned by:
Tiffany Gilmartin
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DATED: November 26, 2019

Tiffany Gilmartin
Administrative Law Judge
Office of Administrative Hearings