BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

V.

ORANGE UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2019110659

ORDER DETERMINING COMPLAINT SUFFICIENT

On November 15, 2019, Parent on behalf of Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Orange Unified School District. On December 2, 2019, Orange Unified filed a motion to dismiss Issue One of Student's complaint on the grounds that some of Student's claims are seeking redress for civil rights claims and are outside the jurisdiction of the Office of Administrative Hearings. Alternatively, Orange Unified's motion argues that Student's complaint is insufficient to put Orange Unified on notice of the basis of Student's claims. On December 4, 2019, Student filed an opposition to Orange Unified's motion.

OAH requires that motions be filed separately. This Order applies only to Orange Unified's notice of insufficiency. OAH will issue a separate order on Orange Unified's motion to dismiss Issue One, and in the future the attorney for Orange Unified is directed not to file a combined Notice of Insufficiency and Motion to Dismiss.

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

Student alleges Orange Unified's November 16, 2017 individualized education plan denied Student a free appropriate public education, referred to as FAPE. Student's complaint is sufficiently pled. Student claims the use of unwarranted behavior interventions, use of unreasonable force, failure to provide systematic behavior interventions, failure to offer a mental health evaluation and to place Student in an environment that conferred a meaningful educational benefit denied him a FAPE.

Student's proposed resolution is that Orange Unified provide Student with compensatory education and for Orange Unified to comply with California Education Code requirements regarding physical restraints, amongst other requested relief. 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).) The proposed resolutions stated in Student's complaint are well-defined requests that meet the statutorily required standard of stating a resolution to the extent known and available to Student at the time. Student's request for monetary relief and injunctive relief regarding Olive Vista that are outside of OAH's jurisdiction can be addressed at the Prehearing Conference in a separate request to strike.

Student's complaint identifies the issues and adequate facts about the problem and proposed resolutions to permit Orange Unified to respond and participate in a resolution session and mediation.

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.

DATED: December 05, 2019

DocuSigned by:
Jennifer Kelly
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Jennifer Kelly
Administrative Law Judge
Office of Administrative Hearings