BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. NEWHALL SCHOOL DISTRICT AND SANTA CLARITA SPECIAL EDUCATION LOCAL PLAN AREA.	OAH Case No. 2018090550 ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

On September 14, 2018, Parent on Behalf of Student filed a Due Process Hearing Request[1] (complaint) with the Office of Administrative Hearings naming Newhall School District and Santa Clarita Special Education Local Plan Area. On September 26, 2018, Santa Clarita timely filed a Notice of Insufficiency as to Student's 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).

The complaint is deemed sufficient unless a party notifies the Office of Administrative Hearings 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 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

[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).

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's complaint indicates that he has been eligible for special education since December 6, 2013, pursuant to the eligibility category of autism. Student generally alleges that both Santa Clarita and Newhall have failed to offer and provide a program to meet Student's individual needs for the past two school years, including extended school years. While Student does not separately list his specific claims, a review of his complaint shows that he is alleging that Santa Clarita denied him a free appropriate public education by failing to provide him with an aide; failing to adequately address his allergies; and failing to provide one-to-one language and speech services. Although Student more globally asserts that Santa Clarita has committed several procedural and substantive violations, each of which has denied him educational benefit, he is limited to pursuing the issues raised in his complaint. (20 U.S. C. § 1415(f)(3)(B); Ed. Code, § 56502, subd. (i).)[2]

The facts alleged in Student's complaint, though brief, are sufficient to put Santa Clarita on notice of the issues forming the basis of the complaint. Student's complaint identifies the issues and adequate related facts about the problem to permit Santa Clarita to respond to the complaint and participate in a resolution session and prepare for hearing.

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[2] Nothing in this Order prohibits Student from filing a separate due process complaint on separate issues. (20 U.S.C. § 1415(o); Ed. Code, § 56509.) Similarly, this Order does not preclude Student from moving to amend the current complaint pursuant to title 20 of the United States Code, section §1415(c)(2)(E)(i).

Therefore, Student's complaint is sufficiently pled.

Student's proposed resolutions request an order that Santa Clarita denied him a FAPE; 60 weekly minutes of group and 30 weekly minutes of individual language and speech services during the regular and extended school year; a one-to-one aide; compensatory speech and language services; inclusion in a general education setting; and reimbursement for private services including related transportation costs. 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. The complaint is sufficient under title 20 United States Code section 1415(b)(7)(A)(ii).

2. The prehearing conference and hearing dates in this matter are confirmed.

DATE: September 28, 2018

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