BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. ALAMEDA UNIFIED SCHOOL DISTRICT AND OAKLAND UNIFIED SCHOOL DISTRICT.	OAH Case No. 2017101092 ORDER DENYING OAKLAND UNIFIED SCHOOL DISTRICT'S NOTICE OF INSUFFICIENCY

On October 24, 2017, Parent on behalf of Student filed a request for due process with the Office of Administrative Hearings naming Alameda Unified School District and Oakland Unified School District. On October 31, 2017, Oakland District filed a motion to dismiss claims outside of the two year statute of limitations, or, in the alternative, a timely Notice of Insufficiency. Student filed an opposition to Oakland District's motion(s) on November 3, 2017. OAH will address Oakland District's motion as two separate motions. The Notice of Insufficiency will be addressed in this Order. The motion to dismiss will be considered in a separate order. These orders apply only to Oakland District and not Alameda District.

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.)

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 alleges that in spring 2010, Oakland District evaluated Student for special education eligibility and found him eligible in July 2010. Oakland District reassessed Student and held numerous individualized education plan team meetings until November 2013, when Parent transferred Student to Alameda District.

Student asserts numerous procedural violations by Oakland District that allegedly impacted parental rights and participation at IEP meetings, and deprived Student of a free appropriate public education or educational benefit. Student contends Oakland District did not provide Parent with notice of her procedural rights on numerous occasions, and that Student has not made appropriate educational progress. Student also alleges Oakland District withheld from and misrepresented to Parent information it was required by law to provide Parent, including educational records. Student claims Oakland District did not timely or appropriately assess Student in all areas of suspected disability, and did not provide appropriate placement and services. Student also asserts that his claims against Oakland District dating back to 2010 are timely. Student's complaint sufficiently identifies and separates claims against Oakland District and Alameda District.

The facts alleged in Student's complaint are sufficient to put Oakland District 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 District to respond to the complaint and participate in a resolution session and mediation. Student offered proposed resolutions, which are sufficiently pled.

ORDER

1. The complaint is sufficient as to Oakland Unified School District 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: November 7, 2017

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