BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2017100125
v.	ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT
IRVINE UNIFIED SCHOOL DISTRICT.	

On September 29, 2017, Student filed a Due Process Hearing Request[1] (complaint) with the Office of Administrative Hearings naming Irvine Unified School District. On October 3, 2017, Irvine 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 OAH 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 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

Irvine timely filed its Notice of Insufficiency within 15 days of receiving Student's complaint. The facts alleged in Student's complaint are sufficient to put Irvine on notice of the issue forming the basis of the complaint. Student's complaint identifies the issue and adequate related facts about the problem to permit Irvine to respond to the complaint, participate in a resolution session and mediation, and prepare for hearing as needed.

Student raises one issue for hearing, namely, whether Irvine denied Student a free appropriate public education by failing to make an appropriate offer of placement, services, and goals through its May 22, 2017 and June 6, 2017 individualized education programs. Irvine does not dispute the sufficiency of the complaint with regard to the issue of placement but contends that Student fails to sufficiently identify the alleged deficiencies with the offer of related services and goals.

Student's complaint contains sufficient supporting facts regarding his allegation that the proposed placement, services, and goals are not appropriate. Student identifies what services and goals he requires by way of reference to his 2016 independent educational evaluation by Dr. Haytasingh, as well as Dr. Haytasingh's critique of Irvine's current IEP offers, and the program he is currently receiving at Prentice School.

Therefore, Student's statement of his issue is sufficient. Further specificity as to whether Student is challenging all of the offered goals and the offer of speech services can be determined at the prehearing conference.

Student's proposed resolutions request an order finding the May and June 2017 IEP's to be inappropriate; reimbursement for tuition at Prentice, including related services and transportation; placement at Prentice or an appropriate certified nonpublic school, including relates services and transportation; and compensatory education. 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. All mediation, prehearing conference, and hearing dates in this matter are confirmed.

DATE: October 4, 2017

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