BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. TURLOCK UNIFIED SCHOOL DISTRICT AND STANISLAUS COUNTY SELPA.	OAH Case No. 2018060923 ORDER DETERMINING DUE PROCESS COMPLAINT SUFFICIENT

On June 13, 2018, Student filed a Due Process Hearing Request[1] (complaint) with the Office of Administrative Hearings naming Turlock Unified School District (District) and Stanislaus County Special Education Local Plan Area (SELPA). On June 22, 2018, District 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).

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

[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).

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 to put District on notice of the issues forming the basis of the complaint. Student is 13 years old. Student attended sixth grade at a District school. Student's issues include: (1) Did District deny Student a free appropriate public education by failing to provide an appropriate individualized education program; (2) Did District deny Student a free appropriate public education by failing to provide appropriate goals and failing to appropriately assess Student in all areas of suspected disabilities; (3) Did District deny Student a free appropriate public education by failing to provide appropriate services and supports; and (4) Did District deny Student a free appropriate public education by failing to provide appropriate supports and services to Student including a Spanish teacher to teach the immersion program to Student and an appropriate amount of time for individual counseling and therapy program services.

Student requests the following proposed resolutions: (1) Accommodations and modifications to include separate testing either individually or in a small group with assistance to read problems, explanation of instructions and additional time on testing, extra time for assignments, parental notice of quizzes and tests so parents can participate and help Student prepare, adjusting work, tests, and quizzes to Student's current functioning grade level until he catches up; (2) District will provide a reassessment and/or independent educational evaluation(s) by District. District will hold a new IEP to review assessments and include appropriate goals that can be met and are realistic; (3) District will fund tutoring from a nonpublic agency annually until Student is caught up and performing at his appropriate grade level; and (4) District will provide adequate educators, counselors, therapists, and aides to bring Student to standard grade level performance and prepare him for life after school.

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, mediation, and prepare for the due process hearing.

Therefore, Student's complaint is sufficient.

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: June 25, 2018

DocuSigned by:
Jackie C. Dai
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JACKIE C. DAI
Administrative Law Judge
Office of Administrative Hearings