BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

STOCKTON UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2020010853

ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

JANUARY 29, 2020

On January 24, 2020, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Stockton Unified School District. On January 28, 2020, Stockton filed a Notice of Insufficiency as to the complaint.

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

The facts alleged in Student's complaint are sufficient. Student's complaint identifies the issues and adequate facts about the problem to permit Stockton to respond and participate in a resolution session and mediation.

Student's complaint states three issues. Issue One of Student's complaint alleges that required IEP team members were never present at Student's IEP team meetings and were not excused, and that Stockton never advised Parent of the absence. This issue as stated gives Stockton sufficient information to participate in a resolution session and mediation and to prepare for hearing.

Issue Two of Student's complaint alleges, "during the 20189 football season", Ms. Leftler, Student's case manager, did not monitor or check up on Student, and as a result, he failed his classes. Although a typographical error regarding the time of this allegation makes the time unclear, the allegation states sufficient information to allow Stockton to participate in a resolution session and mediation, and to prepare for hearing. Additional clarification regarding the specific year at issue can be clarified during the prehearing conference.

Issue Three of Student's complaint alleges that Ms. Leftler was advised by Parent that Student was depressed and needed help. It alleges that Ms. Leftler never checked up on Student, and as a result, Student failed his classes. The allegation is sufficient to allow Stockton to prepare for a resolution session and mediation and to prepare for hearing.

Student's complaint states proposed resolutions, specifically, the implementation of several classroom and instructional accommodations to support Student.

Stockton's claim that Student was required to provide details of Student's unique needs; eligibility; special education services; accommodations; assessments; individualized education programs, called IEP's; and Student's academic performance; in order to meet sufficiency requirements is rejected, given the express pleading requirements previously set forth. Student set forth enough details to establish a timeframe of the allegations in Issues Two and Three by Student's reference to football and basketball seasons and student's being kicked off the basketball team. Therefore, Student's statement of claims in Issues One, Two and Three are 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.

IT IS SO ORDERED.

DATED: January 29, 2020

DocuSigned by:
Rita Defilippis
[illegible]
Rita Defilippis
Administrative Law Judge
Office of Administrative Hearings