BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. LONG BEACH UNIFIED SCHOOL DISTRICT .	OAH Case No. 2018010650 ORDER DETERMINING DUE PROCESS COMPLAINT SUFFICIENT

On January 18, 2018, Student filed a Due Process Hearing Request[1] (complaint) with the Office of Administrative Hearings naming Long Beach Unified School District. On February 2, 2018, District 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

District field a notice of insufficiency arguing Student's issues one, two, three, five, six, seven, nine, eleven, twelve and thirteen did not provide enough information for District to understand the basis of the complaint. Student alleges 13 problems in his complaint. When taken as a whole the problems and resolutions are sufficient to put 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's first problem is an allegation that District violated its child find obligations. Although Student does not allege a specific time period for this issue, the rest of the complaint alleges issues regarding two individualized education programs, one dated March 18, 2016, and one dated January 12, 2018. If problem one is read with the rest of the complaint, Student is alleging a child find violation between March 18, 2016, and January 12, 2018.

Student's problems two through seven all relate back to the subheading above problem number two, that the IEP dated March 18, 2016, failed to offer Student a FAPE in the least restrictive environment. Problem two specifically alleges District failed to assess Student in all areas of suspected disability. Problem three alleges that District's failure to qualify him for special educations services at the March 18 2016 IEP team meeting denied him a FAPE. Problem five alleges that Student has social and behavior deficits that require behavior services that district did not offer. Problem six alleges Student has significant communication deficits that require speech and language therapy that was not offered. Finally, problem seven alleges Student has motor delays and sensory processing issues that require occupational therapy that was not offered.

Student's problems eight through thirteen are similar to problems two through seven, but all relate to the January 12, 2018 IEP instead of the March 18, 2016 IEP. Problem nine alleges that District's failure to qualify him for special educations services at the January 12, 2018 IEP team meeting denied him a FAPE. Problem eleven alleges that Student has social and behavior deficits that require behavior services that district did not offer. Problem

twelve alleges Student has significant communication deficits that require speech and language therapy that was not offered. Finally, problem thirteen alleges Student has motor delays and sensory processing issues that require occupational therapy that was not offered.

Therefore, Student's statement of the thirteen claims is sufficient.

Student's proposed resolutions request finding Student eligible for special education and that District fund compensatory services, fund independent educational evaluations, reimburse Parents for private therapies, and provide ongoing services. 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: February 5, 2018

DocuSigned by:
Linda Johnson
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LINDA JOHNSON
Administrative Law Judge
Office of Administrative Hearings