BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

SADDLEBACK VALLEY UNIFIED SCHOOL DISTRICT, SOUTH ORANGE COUNTY SELPA, TRABUCO HILLS HIGH SCHOOL

OAH CASE NUMBER 2019081163

ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

On August 12, 2019 Student filed motion to amend her Due Process Hearing Request with the Office of Administrative Hearings, referred to as OAH, naming Saddleback Valley Unified School District, South Orange County SELPA, Trabuco Hills High School, to be referred to subsequently as Respondents. Student's motion to amend was granted on September 19, 2019, resetting all timelines in this matter. On October 4, 2019, Respondents 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

Student's complaint alleges four insufficiently pled claims. The complaint fails to provide Respondents with sufficient information to have an awareness of the issues and facts relating to the problem.

With respect to Issue one, Student claims the issue is resolved and is now moot. Student is no longer contesting issue one and it should be struck.

With respect to Issue two, Student appears to be raising the issue of consent for assessments. Student provides no facts as to when the assessment plan was proffered or what assessments are in dispute. Further, Student's claim also appears to be making a procedural allegation that Respondents failed to properly convene a requested IEP team meeting; however, the lack of any factual allegations renders this issue insufficient to put Respondent's on notice of the basis of Student's complaint.

With respect to Issue three, Student alleges this issue is now withdrawn. This issue should be struck as Student is no longer contesting it.

With respect to Issue four, Student appears to be challenging their right to record an IEP resolution meeting. However, absent any supportive facts, it is unclear whether Student is referring to the resolution session that sprung from their due process complaint or an IEP team meeting convened to discuss Student. Even under the liberal pleading standard, this complaint fails to provide Respondents with any basis of facts to put them on notice of the nature of Student's complaint.

MEDIATOR ASSISTANCE FOR NON-REPRESENTED PARENTS

: A parent without an attorney may request that OAH provide a mediator to assist the parent in identifying the issues and proposed resolutions that must be

included in a complaint. (Ed. Code, § 56505.) Parents are encouraged to contact OAH for assistance if they intend to amend their due process hearing request.

ORDER

1. Student's complaint is insufficiently pled under section title 20 United States Code 1415(c)(2)(D).
2. Student shall be permitted to file an amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II).
3. The amended complaint shall comply with the requirements of title 20 U.S.C. section 1415(b)(7)(A)(ii), and shall be filed not later than 14 days from the date of this order.
4. If Student fails to file a timely amended complaint, the complaint will be dismissed.
5. All dates previously set in this matter are vacated.

IT IS SO ORDERED.

DocuSigned by:
Tiffany Gilmartin
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DATED: October 8, 2019

Tiffany Gilmartin
Administrative Law Judge
Office of Administrative Hearings