BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

ESCONDIDO UNION HIGH SCHOOL DISTRICT.

OAH CASE NUMBER 2019080370

ORDER DETERMINING SUFFICIENCY OF COMPLAINT

On August 09, 2019, Parent on behalf of Student filed a Due Process Hearing Request, referred to as a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Escondido Union High School District. The complaint alleges Student is 13 years old, going into eighth grade and resides within the boundaries of Escondido Union High School District. She further descrbes Escondido Union High School District as Student's district of residence and the servicing district.

On August 13, 2019, attorneys representing Escondido Union School District filed a notice or representation. On August 14, 2019, Escondido Union School District 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 complaint alleges Escondido Union High School District failed to provide Student a free appropriate public education, referred to as a FAPE, during the 2016-2017 (beginning in May of 2017), 2017-2018, 2018-2019 and 2019-2020 school years. Student refers to Escondido Union High School District, by name and as "District" or "Respondent." Student alleges that District denied Student a FAPE by failing to provide a classroom with a low student to teacher ratio, a one-on-one aide, and appropriate assistive technology. Student also contends that District failed to offer appropriate levels of speech and language therapy, intensive reading, writing, and math programs. Finally, Student alleges that District failed to implement appropriate behavior interventions for Student, and as a result, Student "checks out" and does not comply with directions. Student requests remedies of prospective education funding, compensatory education, and reimbursement.

It appears from the file that Escondido Union High School District was the named, but not the intended respondent, and that Escondido Unified School District might have been the intended respondent. However, the notice of insufficiency was not filed by either entity. The notice of representation and the notice of insufficiency were filed by attorneys representing what appears to be a third entity, Escondido Union School District. Liberal construction of the pleadings does not encompass changing the named respondent to a different entity by telephone call or by an unnamed party changing the caption on a notice of representation and notice of insufficiency.

As to the named party, Escondido Union High School District, the complaint sufficiently identifies issues, and requested remedies, and facts to permit a district to respond and participate in a resolution session, mediation and hearing on the issues.

Whether the named party is a proper party is not determined by way of a notice of insufficiency filed by an unnamed entity. (20 U.S.C. § 1415(b) & (c).)

Accordingly, on its face, the complaint is sufficient as to Escondido Union High School District.

IT IS SO ORDERED.

DATED: August 16, 2019

DocuSigned by:
Marian H. Tully
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Marian H. Tully
Presiding Administrative Law Judge
Office of Administrative Hearings