BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. SOUTHERN KERN SCHOOL DISTRICT.	OAH Case No. 2018090934 ORDER DETERMINING COMPLAINT SUFFICIENT

On September 25, 2018, Student filed a Due Process Hearing Request[1] (complaint) with the Office of Administrative Hearings naming Southern Kern School District. On October 5, 2018, Southern Kern timely filed a Notice of Insufficiency and Motion to Dismiss as to Student's complaint. Student filed a response on October 8, 2018.

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

Student's complaint consists of 61 pages, the first 25 of which plead facts allegedly occurring before September 25, 2016. Page 19 lists sixteen issues predating the end of the 2014-2015 school year, along with proposed resolutions. The issues do not specify when the alleged procedural and substantive violations occurred. However, the complaint continues on page 22 with facts identified by heading as relating to the 2015-2016 school year. Page 25 lists seven issues for that time period and proposed resolutions. Page 26 through page 53 separately list facts and issues, with proposed resolutions for each time period, for the 2016-2017 and 2017-2018 school years. Page 53 through page 60 consists of legal authorities and argument and do not contain any specific factual allegations relating to Student. Southern Kern contends each of the stated issues do not specifically identify when the alleged violations occurred, and therefore the complaint is insufficient.

Student's complaint lists sufficient facts and clearly identified issues and proposed resolutions for each time period identified by the preceding heading. Therefore, the facts alleged in Student's complaint are sufficient to put the Southern Kern 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 and mediation.

ORDER

1. The complaint is sufficient under title 20 United States Code section 1415(b)(7)(A)(ii).

2. All prehearing conference and hearing dates in this matter are confirmed.

DATE: October 8, 2018

DocuSigned by:
Adrienne L. Krikorian
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ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings