BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: EDUCATIONAL RIGHTS HOLDER ON BEHALF OF STUDENT, v. SANTA ROSA CITY SCHOOLS.	OAH CASE NO. 2014030127 ORDER DENYING DISTRICT'S NOTICE OF INSUFFICIENCY OF DUE PROCESS COMPLAINT

On March 5, 2014, Student filed a Due Process Hearing Request[1] (complaint) naming Santa Rosa City Schools (District). On March 5, 2014, Student also filed a transfer of educational rights to her mother (Parent). District timely filed a Notice of Insufficiency (NOI) as to Student's complaint.[2]

APPLICABLE LAW

The named parties to a due process hearing request have the right to challenge the sufficiency of the complaint.[3] 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 (FAPE) 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.[4] These

[1] A request for a due process hearing under Education Code section 56502 is the due process complaint notice required under Title 20 United States Code section 1415(b)(7)(A).

[2] District filed its NOI on February 28, 2014, which is presumably the date that District received a copy of the complaint from Student. However, OAH did not receive the complaint and transfer of educational rights to Parent from Student until March 5, 2014, and therefore District's NOI will be deemed timely filed on March 5, 2014.

[3] 20 U.S.C. § 1415(b) & (c).

[4] 20 U.S.C. § 1415(b)(7)(A)(ii)(III) & (IV).

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.[5]

The complaint provides enough information when it provides "an awareness and understanding of the issues forming the basis of the complaint."[6] 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.[7] Whether the complaint is sufficient is a matter within the sound discretion of the Administrative Law Judge.[8]

DISCUSSION

Student, who alleges she is 21 years and six months old, claims she resides within the District's boundaries, attends Anova/Ace High School, and is in the 10-11 grade level. She does not identify whether she is eligible for special education or the basis for eligibility. Her complaint identifies four issues with proposed resolutions.

Issue 1 alleges that District failed to provide her with a transition plan, and that she was 17 years old "on admission." Issue 1 can be interpreted to state a claim that, during the relevant statutory period, District denied her a FAPE by failing to provide her with an appropriate transition plan. Student has stated no facts that would support a claim going beyond the applicable two-year statute of limitations, and particularly back to when she was 17 years old. Issue 1 is sufficient as limited here to give District awareness and understanding of the issue so that it can prepare for a resolution session, mediation and due process hearing. Student's proposed resolution is for District to provide an appropriate transition plan to prepare for further education, employment and independent living, which is sufficient.

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[5] See, H.R.Rep. No. 108-77, 1st Sess. (2003), p. 115; Sen. Rep. No. 108-185, 1st Sess. (2003), pp. 34-35.

[6] Sen. Rep. No. 108-185, *supra*, at p. 34.

[7] *Alexandra R. v. Brookline School Dist*. (D.N.H., Sept. 10, 2009, No. 06-cv-0215-JL) 2009 WL 2957991 at p.3 [nonpub. opn.]; *Escambia County Board 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, No. 8:04CV2657T24EAJ) 2005 WL 2850076 at p. 3[nonpub. opn.] ; but cf. *M.S.-G. v. Lenape Regional High School Dist.* (3d Cir. 2009) 306 Fed.Appx. 772, at p. 3[nonpub. opn.].

[8] Assistance to States for the Education of Children With Disabilities and Preschool Grants for Children With Disabilities, 71 Fed.Reg. 46540-46541, 46699 (Aug. 14, 2006).

Issue 2 alleges that District failed to provide a safe and appropriate learning environment, and failed to modify the educational setting when Student was having panic attacks, psychogenic seizures, and unable to learn. Issue 2 can be interpreted to claim that District failed to provide Student with an appropriate educational placement to enable her to access her education and make educational progress as contemplated under the IDEA during the relevant two-year statutory period. Student has stated no facts that would support a claim going beyond the applicable two-year statute of limitations, and particularly back to when she was 17 years old. Issue 2 is sufficient as limited here to give District awareness and understanding of the issue so that it can prepare for a resolution session, mediation and due process hearing. Student's proposed resolution that District to provide her with a home/hospital study program with full services as stated in her "most recent IEP" is sufficient.

Issue 3 alleges that District failed to hold a timely IEP meeting that Student could attend, ignored requests for an IEP and refused to hold an IEP. Issue 3 can be interpreted to claim that District failed to hold an IEP meeting at Student's request during the relevant two-year statutory period. Although Student does not state when she requested an IEP or when District refused to hold one, the claim is not otherwise ambiguous as time-limited here. However, Student has stated no facts that would support a claim going beyond the applicable two-year statute of limitations, and particularly back to when she was 17 years old. Issue 3 is sufficient as limited here to give District awareness and understanding of the issue so that it can prepare for a resolution session, mediation and due process hearing. Student's proposed resolution that District to hold an IEP meeting so that Student "can receive an offer" of a FAPE is sufficient.

Issue 4 alleges that, after her eighteenth birthday, Student lost the ability and right to participate in her IEP, and that District did not permit Parent to serve as her advocate at IEP meetings. Issue 4 can be interpreted to state a claim that, during the relevant statutory period, District denied Student a FAPE by depriving Parent the right to meaningfully participate in the development of Student's educational program because District refused to allow Student's parent to act as her advocate. However, Student has stated no facts that would support a claim going beyond the applicable two-year statute of limitations, and particularly back to when she was 18 years old. Issue 4 is sufficient as limited here to give District awareness and understanding of the issue so that it can prepare for a resolution session, mediation and due process hearing. Student's proposed resolution that Student's parent shall attend IEP team meetings as her advocate and shall act on her behalf in litigation of FAPE issues is sufficient.

ORDER

1. Student's complaint is sufficiently pled under section Title 20 United States Code 1415(c)(2)(D).

2. All dates previously set are confirmed.

DATE: March 6, 2014

/s/

ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings