BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. LOS ANGELES COUNTY OF EDUCATION, WESTCHESTER SECONDARY CHARTER SCHOOL, LOS ANGELES UNIFIED SCHOOL DISTRICT, AND BRIGHT STAR SCHOOLS.	OAH Case No. 2018020301 ORDER DENYING LOS ANGELES COUNTY OFFICE OF EDUCATION'S NOTICE OF INSUFFICIENCY OF DUE PROCESS COMPLAINT

On February 1, 2018 Parent on behalf of Student filed a due process hearing request[1] (complaint) with the Office of Administrative Hearings naming Los Angeles County of Education, Westchester Secondary Charter School, Los Angeles Unified School District, and Bright Star Schools. On February 13, 2018 Los Angeles County of Education 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

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).

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 contains three issues. Issue one alleges respondents denied Student a free appropriate public education by failing to actively "seek and serve" between the period of September 29, 2016 to June 30, 2017. Specifically, LACOE failed in its child find duties that Student was potentially eligible for special education and related services. Issue two alleges LACOE denied Student a FAPE by failing to properly assess her in all areas of suspected disabilities. Issue three alleges respondents' committed procedural violations that denied Student a FAPE and precluded parent's participation in Student's educational plan.

LACOE asserts Student's due process complaint was facially deficient because it did not provide any factual basis that "LACOE has any responsibility to Student, [LACOE] participated in any decision-making process concerning student, or is responsible for special education services" for Student.

The facts alleged in Student's complaint are sufficient to put LACOE on notice of the issues forming the basis of the complaint. Student's complaint satisfactorily identifies the issues and provides adequate related facts about the problem to permit it to respond to the

complaint and participate in a resolution session and mediation. Therefore, Student's complaint is deemed sufficient.[2]

ORDER

1. The issues raised in Student's complaint are sufficient under title 20 U.S.C. section 1415(b)(7)(A)(ii).

DATE: February 15, 2018

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Tiffany Gilmartin
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TIFFANY GILMARTIN
Administrative Law Judge
Office of Administrative Hearings

[2] This order is not considered a Motion to Dismiss.