BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: SAN RAMON VALLEY UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2017031215 ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

On March 21, 2017, San Ramon Valley Unified School District filed a Due Process Hearing Request[1] (complaint) with the Office of Administrative Hearings naming Student. On March 31, 2017, Student filed a Notice of Insufficiency as to District's complaint.

On April 3, 2017, District filed a response.

APPLICABLE LAW

The named parties to a due process hearing request have the right to challenge the sufficiency of the complaint.[2] 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.[3] These requirements prevent vague and confusing complaints, and promote fairness by providing 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).

[2] 20 U.S.C. § 1415(b) & (c).

[3] 20 U.S.C. § 1415(b)(7)(A)(ii)(III) & (IV).

named parties with sufficient information to know how to prepare for the hearing and how to participate in resolution sessions and mediation.[4]

The complaint provides enough information when it provides "an awareness and understanding of the issues forming the basis of the complaint."[5] 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.[6] Whether the complaint is sufficient is a matter within the sound discretion of the Administrative Law Judge.[7]

DISCUSSION

Here, District's complaint describes the problem; it has filed a request for due process hearing by reason of Parents' withholding of consent to District's offer of placement at Spectrum's Hayward campus, a nonpublic school. District alleges that Parents will only consider one particular nonpublic school, without exception. District has identified Spectrum's Hayward campus as the appropriate placement to meet Student's unique educational needs. The complaint explains that the campus has a full-time Board Certified Behavior Analyst on staff. Furthermore, District claims that the campus is staffed with a credentialed special education teacher throughout the school day.

Student contends that District's complaint is insufficiently pled as the complaint contains alleged facts that Student argues to be unfounded. Student disagrees with District's assertion that he has not considered alternative placement options. Student insists that he has considered other placements such as the Morgan Autism Center in San Jose. Student also contends that District's placement determination as to what is the least restrictive environment is premature due to the absence of a completed functional behavior assessment. Additionally, Student further argues that Spectrum's Hayward campus cannot meet Student's unique educational needs, alleging the campus does not have a credentialed teacher in the

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

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

[6] *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.].

[7] Assistance to States for the Educ. of Children with Disabilities & Preschool Grants for Children with Disabilities 71 FR 46, 540-46541, 46699 (Aug. 14, 2006).

classroom for the majority of the day. Though Student disagrees with the assertions in District's complaint, his contentions involve factual disputes to be determined at hearing rather than the sufficiency of the complaint as pled. Resolution of factual disputes requires a hearing.

The complaint contains the necessary information to provide Parents with an awareness and understanding as to the problem. District seeks a finding that District's offer of placement at Spectrum's Hayward campus will provide Student with a free appropriate public education at the least restrictive environment. District's complaint identifies the issue and adequate related facts about the problem to permit Student to respond to the complaint and to prepare for, and fully participate, at a due process hearing.

As to District's proposed resolutions, it requests a finding that its offer of placement at Spectrum's Hayward campus is appropriate and seeks an order allowing District to implement the offer of placement over Parents' objection. A complaint is required to include proposed resolutions to the problem, to the extent known and available to the party at the time. (20 U.S.C. §1415(b)(7)(A)(ii)(IV).) The proposed resolutions stated in District's complaint are well-defined requests that meet the statutorily required standard of stating a resolution to the extent known and available to it at the time.

ORDER

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

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

DATE: April 4, 2017

DocuSigned by:
Rommel P. Cruz
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ROMMEL P. CRUZ
Administrative Law Judge
Office of Administrative Hearings