BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

WOODSIDE SCHOOL DISTRICT.

OAH CASE NUMBER 2019070078

ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

On July 1, 2019, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Woodside School District. On July 11, 2019, Woodside filed a Notice of Insufficiency as to Student's Issue One and Three of 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).

The complaint is deemed sufficient unless a party notifies OAH and the other party in writing within 15 days of receiving the complaint that the party believes the

complaint has not met the notice requirements. (20 U.S.C. § 1415(c)(2)(C); Ed. Code, § 56502, subd. (d)(1).) 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 issues alleged in Student's complaint are sufficiently pled. Student's complaint identifies three issues, of which Issue One and Three are specifically challenged by Woodside as insufficient. Student's Issue One alleges that Woodside failed to provide Student with school records which deprived Student of a free, appropriate public education, referred to as a "FAPE.". The complaint sets forth the dates of Student's requests for records and explains why the records provided by Woodside in response to the requests were insufficient. Issue One of Student's complaint sets forth adequate facts about the problem to permit Woodside to respond and participate in a resolution session and mediation.

Student's Issue Two alleges that Woodside deprived Student a FAPE by not implementing his prior individualized education program, called an "IEP," when he transferred to the district mid-year. Student's Issue Two sets forth sufficient facts detailing his services in his prior IEP and why the services provided by Woodside upon Student's arrival, were not comparable to those services. Student's Issue Two sets forth adequate facts about the problem to permit Woodside to respond and participate in a resolution session and mediation. Therefore, Student's Issue Two is sufficiently plead.

Student's Issue Three alleges that Woodside deprived Student of a FAPE by not considering and/or providing for his needs as a deaf and hard-of-hearing student in the least restrictive environment. Student's complaint describes Student's primary mode of communication, his cognitive ability and his language delays resulting from his hearing loss. It also describes his specific challenges in a learning environment that result from his hearing impairment in light of specifically described limitations of his cochlear implant. Student's Issue Three, sets forth the specific legal provisions alleged to have been violated, which puts Woodside on notice of the basis of Student's claims. Issue

Three of Student's complaint sets forth adequate facts about the problem to permit Woodside to respond and participate in a resolution session and mediation.

All issues in Student's complaint are sufficiently plead to put Woodside on notice as to the basis of Student's claims.

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.

IT IS SO ORDERED.

DATED: July 11, 2019

DocuSigned by:
Rita Defilippis
8BD5FE332F4847E...

Rita Defilippis
Administrative Law Judge
Office of Administrative Hearings