BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: LOS ANGELES UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT,	OAH Case No. 2017020291
PARENT ON BEHALF OF STUDENT, v. LOS ANGELES UNIFIED SCHOOL DISTRICT.	OAH Case No. 2017010696 ORDER DENYING STUDENT'S NOTICE OF INSUFFICIENCY

On January 6, 2017, parent on behalf of Student filed a Request for Due Process Hearing with the Office of Administrative Hearings in case number 2017010696 (Student's Case), naming Los Angeles Unified School District. On February 7, 2017, District filed a Request for Due Process Hearing with OAH in case number 2017020291 (District's Case). Concurrently with the filing of the District's Case, District filed its Motion to Consolidate Student's Case with District's Case. On February 13, 2017, OAH granted District's Motion to Consolidate.

On February 15, 2017, Student filed his notice of insufficiency as to District's Case, and a request for reconsideration of District's Motion to Consolidate.[1]

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).

[1] Student's Motion for Reconsideration will be handled in a separate order.

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 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 contends that District partially served one page of its complaint by facsimile onto Student; and because District did not properly serve onto Student the rest of its complaint, District's complaint was insufficient. Student requests that District's complaint be dismissed.

The issues in District's Case were whether its occupational therapy, psycho-educational and speech and language assessments were appropriate such that it need not fund independent evaluations. The facts alleged in District's complaint were sufficient to put Student on notice of the issues stated, provided adequate facts about the problem to permit Student to respond to the complaint and participate in a resolution session and mediation. Therefore, Student's notice of insufficiency is denied. [2]

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[2] Student may file a Motion to Reset Timelines to address District's failure to properly serve Student with all the pages of the complaint.

ORDER

1. District's complaint is deemed sufficient under title 20 United States Code section 1415(c)(2)(C) and Education Code section 56502, subdivision (d)(1).

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

DATE: February 21, 2017

DocuSigned by:
Sabrina Kong
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SABRINA KONG
Administrative Law Judge
Office of Administrative Hearings