

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

HEMET UNIFIED SCHOOL DISTRICT.

OAH CASE NO. 2015010324

ORDER OF DETERMINATION OF
SUFFICIENCY OF AMENDED DUE
PROCESS COMPLAINT AND
DENYING MOTION TO DISMISS

On January 7, 2015, Parent on behalf of Student filed a Due Process Hearing Request (complaint). Student's complaint contained issues delineated in the complaint as Issues 1 (a),(b), and (c), pertaining to goals and tutoring, and an Issue 2, pertaining to the timing of scheduling an individualized education program team meeting.¹

On January 26, 2015, the parties held a resolution session at which Issue 2, pertaining to the timing of scheduling an IEP meeting was resolved by a written settlement agreement.² The settlement agreement explicitly pertained only to the issue pertaining to the timing of scheduling an IEP meeting. The issues pertaining to goals and tutoring were not specifically addressed in the settlement agreement.

The settlement agreement contained a broad release of all claims known or unknown. The settlement agreement also contained a provision stating that it was to become effective within three days if not rescinded by either party.

On January 26, 2015, Parent filed an amended complaint, restating Issues 1 (a),(b) and (c) pertaining to goals and academic interventions.

On January 30, 2015, District made a Motion to Dismiss or in the Alternative Notice of Insufficiency pertaining to the amended complaint. District argued the claims in the amended complaint were insufficiently pled, and that they had been released by the release in the settlement agreement. No opposition has been received.

¹ On January 14, 2015, OAH issued an Order determining that Issues 1 (a),(b), and (c), pertaining to goals and tutoring, were insufficiently pled, and allowing Student to file an amended complaint that would restart the applicable timelines.

² The settlement agreement erroneously referred to the settled Issue as Issue 1, however it clearly relates to the issue stated in the complaint as Issue 2.

As discussed below, the Motion is denied. The claims in the amended complaint were not subject to a valid release. The claims in the amended complaint were sufficiently pled.

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 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 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

³ 20 U.S.C. § 1415(b) & (c).

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

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.

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

The facts alleged in Student's amended complaint are sufficient to put the District on notice of the issues forming the basis of the complaint. Student's amended complaint states that Student has only met two goals in his IEP, those being the ones on which he works in small groups; it states he has goals that he cannot meet without intervention; and it states that District has not provided appropriate interventions or addressed his academic gaps. Student has identified the issues and adequate related facts about the problem to permit District to respond to the complaint and participate in a resolution session and mediation. Therefore, Student's statement of the claims is sufficient.

While it is true that the settlement agreement contained a broad release of all claims known or unknown, the document is clear that the sole claim actually resolved pertained only to the timing of scheduling an IEP meeting. Student's other issues pertaining to goals and academic interventions were not specifically covered by the settlement. Therefore, Student's amended complaint filed on January 26, will be treated as a rescission within three days of the broad release of all claims known or unknown. The broad release was thus effectively rescinded within three days by the filing of the amended complaint. Therefore District's reliance on the release is misplaced. District's Motion to Dismiss is denied.

ORDER

1. District's Motion to Dismiss is denied.
2. The amended complaint is sufficient under title 20 United States Code section 1415(b)(7)(A)(ii).
3. All mediation, prehearing conference, and hearing dates in this matter are confirmed.

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).

DATE: February 20, 2015

/s/

JUNE R. LEHRMAN
Administrative Law Judge
Office of Administrative Hearings