BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

WESTSIDE UNION SCHOOL DISTRICT.

OAH CASE NUMBER 2020060871

ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

JULY 09, 2020

On June 23, 2020, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Westside Union School District. On July 2, 2020, Westside Union filed a Notice of Insufficiency as to 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).

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

Student's complaint alleges three enumerated claims, consisting of six issues, all of which are sufficient. As the first issue, Student alleges that Westside Union denied Student a free appropriate public education, or FAPE, in the individualized education program, or IEP, dated November 4, 2019 by failing to offer an appropriate placement because it failed to address Student's autism needs. In issue two, Student alleges that Westside Union denied a FAPE in the November 4, 2019 IEP by failing to address and offer appropriate services, accommodations and goals to address Student's toileting needs. In issue three, Student alleges that Westside Union failed to address and offer appropriate services, accommodations and goals to address Student's socialization needs. Issues four, five and six are identical to the first three issues, except they challenge the appropriateness of the June 3, 2020 IEP. The complaint also contains proposed resolutions regarding the claims.

Issues one and four, which challenge the appropriateness of the placement offered by Westside Union are sufficient. Contrary to the position taken by Westside Union, the complaint states "what" and "how" the school district denied a FAPE. It sets forth the specific IEPs at issue, and that nature of the problem was the placement. It also sufficiently states why the placement was not appropriate, specifically, that failed to address Student's autism needs. Issues one and four are sufficiently pled to put Westside Union on notice as to the basis of Student's claims.

With regard to issues two, three, five and six, taken as a whole, Student's complaint alleges sufficient facts to provide Westside Union with an awareness and understanding of the issues forming the basis of Student's claims. It identifies the specific IEPs at issue, namely, the November 2019 and June 2020 IEPs. It also identifies which provisions of FAPE Student is challenging, specifically, the services, goals and

accommodations. Finally, Student alleges that those provisions were not appropriate because they did not address Student's toileting and socialization needs. Therefore, issues two, three, five and six are sufficiently pled to put Westside Union 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.

DocuSigned by:
Laurie Gorsline
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Laurie Gorsline
Administrative Law Judge
Office of Administrative Hearings