BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. LAFAYETTE ELEMENTARY SCHOOL DISTRICT AND ACALANES UNION HIGH SCHOOL DISTRICT	OAH Case No. 2017120415 ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

On December 8, 2017, Parent on behalf of Student filed a Due Process Hearing Request[1] with the Office of Administrative Hearings, naming Lafayette Elementary School District and Acalanes Union High School District. On December 20, 2017, Acalanes filed a Notice of Insufficiency as to Student's complaint.

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).

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.)

[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).

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 contains four issues.[2] Issue one alleges that Lafayette failed to assess Student in all areas of suspected disability during the 2015-2016 school year. Specifically, Student asserts that Lafayette failed to assess Student in the areas of behavior, emotion, occupational therapy, and psychoeducation. Issue two alleges that Acalanes failed to assess Student in those same areas during the 2016-2107 school year. Student's third issues claims that Lafayette failed to provide Student an appropriate individualized education program for the 2015-2016 school year and extended school year, based upon IEPs dated October 21, 2015, and March 17, 2016. Student specifically complains that the IEPs failed to provide a meaningful behavioral and therapeutic support plan or goals. Student's last issue complains that Acalanes failed to offer, and implement, appropriate educational programs during the 2016-217 and 2017-2018 school years and extended school years, pursuant to IEP offers made on October 20, 2016, and September 12, 2017.

The facts alleged in Student's complaint are sufficient to put Acalanes and Lafayette on notice of the issues forming the basis of the complaint. The complaint identifies the issues and adequate related facts about the problem to permit Acalanes and Lafayette to respond to the complaint and participate in a resolution session and mediation.

Therefore, Student's statement of the four claims is sufficient.

ORDER

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

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[2] Student's issue "e" is a request for a remedy, and not a separate claim.

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

DATE: December 21, 2017

DocuSigned by:
Paul Kamoroff
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PAUL H. KAMOROFF
Administrative Law Judge
Office of Administrative Hearings