BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. ANTIOCH UNIFIED SCHOOL DISTRICT AND PITTSBURG UNIFIED SCHOOL DISTRICT.	OAH Case No. 2017061033 ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

On June 22, 2017, Student filed a Request for Due Process Hearing with the Office of Administrative Hearings, naming Antioch Unified School District and Pittsburg Unified School District. On June 28, 2017, Pittsburg filed a Notice of Insufficiency as to Issue One in the complaint.[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).

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,

[1] On June 28, 2017, Pittsburg also filed a Motion to Unexpedite this matter. That motion is handled in a separate order.

supra, at p. 34.) The pleading requirements should be liberally construed in light of the broad remedial purposes of the Individuals with Disabilities Education Act 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

Issue One alleges Pittsburg failed to hold a manifestation determination meeting after Student was suspended for more than ten days; and unilaterally revised Student's behavior support plan without appropriate assessments. Pittsburg contends Issue One of the complaint is insufficient because Student failed to provide sufficient details regarding the disciplinary removals alleged in the complaint. Specifically, Pittsburg contends Student did not indicate what the removals were, whether they were close in time, or whether they amounted to a course of conduct to which the manifestation determination law applies.

The nature of the problem and facts alleged in Issue One of the complaint are sufficient to put Pittsburg on notice of the issues forming the basis of the complaint. Additionally, the complaint contains proposed resolutions pertaining to the issue. Therefore, Pittsburg has sufficient information to prepare for the hearing and participate in a resolution session and/or mediation. Accordingly, Issue One of the complaint is deemed sufficient.

ORDER

Issue One of the complaint is sufficient under title 20 United States Code section 1415(b)(7)(A)(ii).

DATE: July 6, 2017

DocuSigned by:
Tara Doss
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TARA DOSS
Administrative Law Judge
Office of Administrative Hearings