BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. FRESNO COUNTY DEPARTMENT OF SOCIAL SERVICES; FRESNO UNIFIED SCHOOL DISTRICT; FRESNO COUNTY OFFICE OF EDUCATION; SONOMA COUNTY OFFICE OF EDUCATION; ELK GROVE UNIFIED SCHOOL DISTRICT; KERN HIGH SCHOOL DISTRICT; NEVADA JOINT UNION HIGH SCHOOL DISTRICT; REDLANDS UNIFIED SCHOOL DISTRICT; CENTRAL UNIFIED SCHOOL DISTRICT; FRESNO COUNTY JUVENILE PROBATION; AND THE STATE OF CALIFORNIA.	OAH Case No. 2017070678 ORDER DENYING NOTICE OF INSUFFICIENCY AS TO SONOMA COUNTY OFFICE OF EDUCATION

On July 18, 2017, Student filed an amended due process hearing request (complaint) with the Office of Administrative Hearings naming multiple parties. The Office of Administrative Hearings granted leave to amend effective July 26, 2017. On August 10, 2017, Sonoma County Office of Education timely filed a Notice of Insufficiency as to Issue 3 of 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.)

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 identifies ten separate issues, each with multiple subparts. Each numbered issue identifies allegations against a specific responding party. Specifically, issues 3(a) through (k) are alleged against Sonoma County. Sonoma County contends that "at least" issues 3(b), 3(c), 3(d), 3(g), and 3(j) are insufficient. This order considers the entirety of Issue 3 as alleged against Sonoma County.

Student alleges Sonoma County denied Student a free appropriate public education "during the 2016-2017 (August 2, 2016 through August 22, 2016) school year," by: failing to offer an appropriate placement; failing to "provide" measurable goals in all areas of need; failing to consider a continuum of placement options; predetermining Student's individualized education program; failing to offer or provide appropriate behavior services; failing to provide appropriate behavior services; failing to offer an appropriate behavior intervention plan; failing to offer adequate counseling/ mental health services; failing to conduct a functional behavior assessment; failing to find Student eligible under the category of emotional disturbance; and failing to offer an assessment plan when conditions warranted.

Factual allegation paragraphs 62-64 allege Student was placed in an inappropriate placement at Victor Treatment by either Department of Social Services or Fresno County Juvenile Probation. Paragraph 65 asserts that on August 17, 2016, Sonoma County developed an interim placement IEP, which provided for a nonpublic school, including behavior services, and group and individual counseling. Paragraphs 66 through 68 assert Sonoma County should have changed Student's eligibility to emotional disturbance, and should have offered her an assessment plan. Student further alleges Sonoma County offered

her an inadequate IEP. It should have offered a functional behavioral assessment, an appropriate behavior intervention program, and placement at an out-of-state residential treatment facility with counseling and appropriate behavior services. Student alleges in paragraph 69 that Student's behaviors became self-injurious and inappropriate. She was removed from Victor on September 7, 2016 and returned to juvenile hall. The remainder of the complaint's 142 factual allegations addresses other responding parties. Student seeks remedies jointly against all of the respondents, including compensatory education and counseling, placement in an out-of-state residential treatment program with transportation and lodging for Parents, and other remedies that are specifically directed at other responding parties.

District argues that Student failed to allege any facts specifically against Sonoma County asserting lack of goals, consideration of continuum of options, failure to provide appropriate present levels of performance, predetermination, or eligibility. District's argument is not persuasive. Student's complaint has stated enough facts in connection with Issue 3 to put Sonoma County on notice of the issues forming the basis of the complaint against it. Student's complaint identifies the issues and adequate related facts about the problem to permit Sonoma County to respond to the complaint and participate in a resolution session and mediation. Similarly, the complaint identifies sufficient proposed resolutions.

Therefore, Student's complaint, specifically Issue 3 and all subparts, is sufficient as to Sonoma County.

ORDER

1. Issue 3 of Student's complaint is sufficient as to Sonoma County 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.

Dated: August 14, 2017

DocuSigned by:
Adrienne L. Krikorian
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ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings