BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

RIO SCHOOL DISTRICT AND VENTURA COUNTY OFFICE OF EDUCATION.

OAH CASE NUMBER 2019080294

ORDER DETERMINING COMPLAINT INSUFFICIENT

On August 8, 2019, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Rio School District and Ventura County Office of Education. On August 23, 2019, Ventura filed a Notice of Insufficiency as to the complaint as did Rio.

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

The facts alleged in Student's complaint regarding the issues are sufficient. Student's complaint identifies two issues and adequate facts about the problem to permit both Rio and Ventura to respond and participate in a resolution session and mediation. Ventura argues that the complaint is insufficient as to it because Ventura is

not the local education agency responsible for providing Student with a FAPE. Ventura argues it is only a service provider. Ventura's argument is not persuasive. Student alleges she attended a school operated by Ventura from June 2017 through March 2018. Student further alleges multiple facts as to Ventura and its alleged failure to supervise Student and create a safe learning environment. Finally, since a Notice of Insufficiency presumes the facts alleged in the complaint to be true, and Student alleges that Ventura is a responsible public agency, the appropriate means to resolve Ventura's contention is through a motion to dismiss.

However, Student's complaint is insufficient as she failed to include any resolutions. A complaint is required to include proposed resolutions to the problem, to the extent known and available to the party at the time. (20 U.S.C. §1415(b)(7)(A)(ii)(IV).) All Student lists in her conclusion is that OAH deem her the prevailing party on all issue. Prevailing party status is not a resolution.

ORDER

1. Student's complaint is insufficiently pled under section title 20 United States Code 1415(c)(2)(D).
2. Student shall be permitted to file an amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II).
3. The amended complaint shall comply with the requirements of title 20 U.S.C. section 1415(b)(7)(A)(ii), and shall be filed not later than 14 days from the date of this order.

4. If Student fails to file a timely amended complaint, the complaint will be dismissed.
5. All dates previously set in this matter are vacated.

DocuSigned by:
Linda Johnson
5092A92341544B9...

DATED: August 23, 2019

Linda Johnson
Administrative Law Judge
Office of Administrative Hearings