BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. MURRIETA VALLEY UNIFIED SCHOOL DISTRICT, CALIFORNIA VIRTUAL ACADEMIES @SAN DIEGO & SPENCER VALLEY ELEMENTARY SCHOOL DISTRICT	OAH Case No. 2018040483 ORDER DETERMINING DUE PROCESS COMPLAINT SUFFICIENT

On April 11, 2018, Student filed a Due Process Hearing Request[1] (complaint) with the Office of Administrative Hearings naming Murrieta Valley Unified School District (District), California Virtual Academies @ San Diego (CAVA), and Spencer Valley Elementary School District (Spencer Valley). On April 16, 2018, District timely 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

The facts alleged in Student's complaint are sufficient to put District on notice of the issues forming the basis of the complaint. Student is 16 years old. Student is a person with dyslexia and dysgraphia. Student resides with his parents within District and attends tenth grade at a District school. In sum, the complaint alleges in Issue 1 that District, CAVA, and Spencer Valley failed to provide a free appropriate public education throughout the statutory period by not providing an appropriate individualized education program designed to meet his unique educational needs such that he could access an appropriate education. Student further alleges in Issue 2 that CAVA and Spencer Valley denied Student a FAPE by failing to conduct an appropriate triennial assessment in May 2016 in all areas of unique needs.

Student's proposed resolutions for Issue 1from District include: (1) an Order that District provide Student with specific methodologies consisting of the Orton-Gillingham program, to address deficits related to his unique needs including his learning disabilities of dyslexia and dysgraphia; (2) Conduct a comprehensive multidisciplinary assessment in all areas of suspected need including but not limited to deficits related to dysgraphia, dyslexia, central auditory processing, phonological processing, attention processing, language, assistive technology, academic achievement, memory and executive functioning (3) conduct a language and speech assessment; (4) provide extended school year services; (5) modify Student's grades; (6) provide reimbursement to parents for all out-of-pocket expenses related to Student's education, including but not limited to: assessments, educational services and related services; and (7) provide compensatory education including but not limited to: intense academic instruction, language and speech services, auditory processing services and services to address Students phonological processing deficits. Student's proposed resolutions for Issue 1 from CAVA include: (1) reimburse parents for any and all privately funded educational programs including Camp Spring Creek, tutoring, assessments and related services; and (2) provide compensatory education including but not limited to: intense

academic instruction, language and speech services, auditory processing services and services to address Student's phonological deficits.

Student's proposed resolutions for Issue 2 from CAVA and Spencer Valley: (1) fund a psycho-educational independent educational evaluation; (2) fund an independent educational evaluation in the area of language and speech; (3) reimburse parents for any and all privately funded educational programs including Camp Spring Creek; and (4) provide compensatory education in the form of intense academic instruction, language and speech, auditory processing and phonological processing services.

Student's complaint identifies the issues and adequate related facts about the problem to permit District to respond to the complaint, participate in a resolution session, mediation, and prepare for hearing.

Therefore, Student's complaint is sufficient.

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.

DATE: April 17, 2018

DocuSigned by:
Jackie C. Dai
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JACKIE C. DAI
Administrative Law Judge
Office of Administrative Hearings