BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2016110996
v.	ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT
MONROVIA UNIFIED SCHOOL DISTRICT.	

On November 17, 2016, Student filed a due process hearing request[1] (complaint) with the Office of Administrative Hearings naming Monrovia Unified School District. On December 2, 2016, District filed a notice of insufficiency as to Issues 3 and 4. On December 6, 2016, Student filed an opposition.

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

[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).

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 alleges that despite years of failed hearing screenings, language delays and difficulty with reading and written language, District failed to assess Student for hearing impairment until October 2014. The complaint further alleges that after District was aware of Student's hearing impairment, it failed to provide her with the supports and placement necessary to meet her educational needs, causing Student increasing anxiety. Instead, District reduced Student's services and offered Student placement in a moderate to severe special day class. Student makes four claims that District denied her a FAPE from November 2014 through the present by: (1) failing to assess Student in all areas of suspected disability; (2) failing to put additional supports and services in place when Student failed to make progress; (3) failing to provide appropriate deaf/hard of hearing and social/emotional services; and (4) failing to provide specialized academic instruction in the least restrictive environment. District contends that the complaint is insufficiently pleaded because it cannot determine what period of time is at issue in Issues 3 and 4.

The facts alleged in Student's complaint are sufficient to put District on notice of the issues forming the basis of the complaint. The time period at issue for all claims, including Issues 3 and 4, is clearly alleged as November 2014 through the filing of the complaint.

ORDER

1. The complaint is deemed sufficient under title 20 United States Code section 1415(c)(2)(C) and Education Code section 56502, subdivision (d)(1).

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

DATE: December 7, 2016

DocuSigned by:
Alexa Hohensee
A7D463EE094544B...

ALEXA HOHENSEE
Administrative Law Judge
Office of Administrative Hearings