BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2018080080
v.	ORDER FOLLOWING PREHEARING CONFERENCE CONFIRMING PLACEMENT AS AN ISSUE AT HEARING
SAN MARCOS UNIFIED SCHOOL DISTRICT.	

At the December 3, 2018 prehearing conference, Administrative Law Judge Sabrina Kong ordered the parties to file briefing on whether the following issue should be a part of the hearing:[1]

"2.c. Did San Marcos deny Student a FAPE by failing to offer appropriate placement in the least restrictive environment at the June 13, 2018 IEP team meeting?"

APPLICABLE LAW

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.].)

After reviewing the first amended complaint, and reviewing both the Student's and San Marco's December 4, 2018 briefings, the placement issue shall be part of the hearing. Student raised the allegations of inappropriate placement in paragraphs 72-84 of the first amended complaint. San Marcos had notice that Parents disagreed with San Marcos' offer of a moderate to severe placement. While the issue of inappropriate placement could have been more artfully stated, Student did articulate that he disputed the moderate to severe placement

[1] Student's first amended complaint was not available to the ALJ at the PHC as it had been misfiled by OAH.

offered by San Marcos in the first amended complaint. Therefore, inappropriate placement as set forth in the December 4, 2018 Order Following Prehearing Conference and above, as 2.c., will be an issue at hearing.

IT IS SO ORDERED.

DATE: December 6, 2018

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Sabrina Kong
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SABRINA KONG
Administrative Law Judge
Office of Administrative Hearings