BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
EUREKA CITY SCHOOLS,	OAH Case No. 2019020971
v.	ORDER DENYING REQUEST TO DETERMINE SUFFICIENCY OF EXPEDITED COMPPLAINT
PARENT ON BEHALF OF STUDENT.	

On February 25, 2019, Eureka City Schools filed a Request for Expedited Due Process hearing[1] (complaint) with the Office of Administrative Hearings naming Student. On February 28, 2019, Student filed a Notice of Insufficiency as to Eureka's complaint. On March 4, 2019, Eureka filed an Opposition. OAH scheduled the matter for an expedited mediation on March 12, 2019, and for an expedited due process hearing on March 26, 27, and 28, 2019.

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).

Title 20 United States Code section 1415(k)(3) permits a party to request an expedited hearing to appeal a decision regarding a disciplinary change of placement, such as placement in an alternative education setting or a manifestation determination regarding student conduct. This section requires an expedited hearing to occur within 20 school days of the date the hearing is requested. There is no provision similar to that in title 20 United States Code section 1415(c)(2)(A) for testing the sufficiency of a request for an expedited hearing pursuant to section 1415(k). Indeed, there is insufficient time to complete the NOI process in expedited hearings.

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

[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).

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

Eureka's complaint states one issue wherein it seeks an expedited due process hearing to change Student's placement to a 45-day interim alternative educational setting based on allegations that maintaining Student's current placement is substantially likely to result in injury to Student, or others, pursuant to 20 United States Code section 1415(k)(3)(A). As Eureka's complaint states an expedited issue, an expedited hearing is required pursuant to 20 U.S.C. section 1415(k). There is no provision similar to that in title 20 United States Code section 1415(c)(2)(A) for testing the sufficiency of a request for an expedited hearing and there is insufficient time to complete the NOI process. Accordingly, Student's request to determine the sufficiency of Eureka's complaint is Denied.

ORDER

1. Student's request to determine the sufficiency of Eureka's expedited complaint is Denied.

2. All expedited mediation, prehearing conference, and hearing dates in this

matter are confirmed.

DATE: March 5, 2019

DocuSigned by:
Rita Defilippis
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RITA DEFILIPPIS
Administrative Law Judge
Office of Administrative Hearings