BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

KERN HIGH SCHOOL DISTRICT.

OAH CASE NUMBER 2020110729

ORDER DENYING NOTICE OF INSUFFICIENCY OF DUE PROCESS COMPLAINT

DECEMBER 10, 2020

On November 24, 2020, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Kern High School District, referred to as Kern HSD. On December 9, 2020, Kern HSD timely filed a Notice of Insufficiency as to the complaint.

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.)

Here, Student's complaint alleges the required general facts about Student. Student is 14 years old, in the ninth grade, and is assigned to Frontier High School within Kern HSD. Student asserts she is eligible for special education under based upon

multiple disabilities. She asserts she has multiple behavioral issues that have impeded her education. Student claims in Issue 1 that Kern HSD failed to adequately assess Student in the area of maladaptive behavior or all suspected disabilities. Student claims in Issue 2 Kern HSD failed to provide appropriate services from adequately trained providers, resulting in her failure to advance appropriately in her education. Student seeks as proposed resolutions parental reimbursement for educational expenses, compensatory education, placement in a residential treatment center, and independent evaluations in the areas of behavior, psycho-educational, mental health, speech and language, occupational therapy and health.

The facts alleged in Student's complaint are sufficient, particularly when read in the context of the proposed resolutions. Student's complaint identifies the issues and adequate facts about the problem to permit Kern HSD to respond and participate in a resolution session and mediation.

The complaint is sufficient under title 20 United States Code section 1415(b)(7)(A)(ii). All mediation, prehearing conference, and hearing dates in this matter are confirmed.

IT IS SO ORDERED.

Adrienne L. Krikorian

Adrienne L. Krikorian
Administrative Law Judge
Office of Administrative Hearings