BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. CULVER CITY UNIFIED SCHOOL DISTRICT.	OAH Case No. 2017010589 ORDER FINDING STUDENT'S COMPLAINT SUFFICIENT

On January 9, 2017, Student filed a due process hearing request[1] (complaint) with the Office of Administrative Hearings naming Culver City Unified School District. On January 24, 2017, District filed a timely 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.)

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,

[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).

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 escalating behaviors at school, District exited Student from special education in sixth grade and did not offer her a special education eligibility and placement again until February 2016 when she was in the ninth grade, after Parents had unilaterally placed Student in several residential treatment programs. Student alleges four issues: (1) whether District met its child find obligation prior to February 2016, (2) whether District should have made an interim placement prior to the February 2016 IEP, (3) whether Student was denied a FAPE by the failure to offer an interim placement, and (4) whether Student was denied a FAPE in her "last District placement." As resolutions, Parents seek reimbursement of private placement and services provided from February 2016 through March 2016.

The facts alleged in Student's complaint are sufficient to put District on notice of the issues forming the basis of the complaint. Although the reference to Student's "last" placement is somewhat confusing in light of the fact that Student is now placed by District in a residential treatment center, the facts as alleged make clear that Student challenges and seeks remedies for, District's alleged failure to offer a FAPE from February 2016 through March 2016. Student's complaint identifies the issues and adequate related facts about the problem to permit District to respond to the complaint and participate in a resolution session and mediation. Therefore, Student's statement of the four claims 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: January 25, 2017

DocuSigned by:
Alexa Hohensee
A7D463FF094544B...

ALEXA J. HOHENSEE
Administrative Law Judge
Office of Administrative Hearings