BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. STOCKTON UNIFIED SCHOOL DISTRICT.	OAH CASE NO. 2013030123 ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

On March 1, 2013, Student filed a Due Process Hearing Request[1] (complaint) naming Stockton Unified School District (District) as the respondent.

On March 14, District timely filed a Notice of Insufficiency (NOI) as to Student's complaint. District timely re-filed the NOI on March 15, 2013.[2]

APPLICABLE LAW

The named parties to a due process hearing request have the right to challenge the sufficiency of the complaint.[3] 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 (FAPE) 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.[4] These

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[1] A request for a due process hearing under Education Code section 56502 is the due process complaint notice required under Title 20 United States Code section 1415(b)(7)(A).

[2] On March 14 and 15, 2013, District also filed a Motion to Dismiss, which will be addressed by separate Order.

[3] 20 U.S.C. § 1415(b) & (c).

[4] 20 U.S.C. § 1415(b)(7)(A)(ii)(III) & (IV).

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.[5]

The complaint provides enough information when it provides "an awareness and understanding of the issues forming the basis of the complaint."[6] 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.[7] Whether the complaint is sufficient is a matter within the sound discretion of the Administrative Law Judge.[8]

DISCUSSION

The facts alleged in Student's complaint are sufficient to put the District on notice of the issues forming the basis of the complaint. Student states extensive factual background relating to his educational program since first being assessed in 2007, and alleges four separate issues: First, that District denied Student a free appropriate public education (FAPE) by failing to appropriately asses him in all areas of suspected disability, specifically by failing to perform an appropriate neuropsychological assessment, autism assessment, and behavior assessment; second, that District denied Student a FAPE by failing to tailor his goals and educational program to his unique needs, specifically by not providing sufficient behavioral and social skills goals and services, and small group instruction; fourth and fifth, that District denied Student a FAPE by failing to provide Parents with a full copy of Student's educational records, and by failing to translate Student's individualized education programs (IEP's) into Spanish, thereby depriving them of the opportunity to participate in the decision-making process regarding Student's education. Student's proposed resolutions

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[5] See, H.R.Rep. No. 108-77, 1st Sess. (2003), p. 115; Sen. Rep. No. 108-185, 1st Sess. (2003), pp. 34-35.

[6] Sen. Rep. No. 108-185, *supra*, at p. 34.

[7] *Alexandra R. v. Brookline School Dist*. (D.N.H., Sept. 10, 2009, No. 06-cv-0215-JL) 2009 WL 2957991 at p.3 [nonpub. opn.]; *Escambia County Board 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, No. 8:04CV2657T24EAJ) 2005 WL 2850076 at p. 3[nonpub. opn.] ; but cf. *M.S.-G. v. Lenape Regional High School Dist.* (3d Cir. 2009) 306 Fed.Appx. 772, at p. 3[nonpub. opn.].

[8] Assistance to States for the Education of Children With Disabilities and Preschool Grants for Children With Disabilities, 71 Fed.Reg. 46540-46541, 46699 (Aug. 14, 2006).

include independent educational evaluations (IEE's); compensatory education including educational therapy, counseling and private behavioral services; placement at a nonpublic school; provision of complete records; and attorney's fees. 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 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.

Dated: March 18, 2013

/s/

JUNE R. LEHRMAN
Administrative Law Judge
Office of Administrative Hearings