BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. ARCADIA UNIFIED SCHOOL DISTRICT AND EL MONTE CITY SCHOOL DISTRICT.	OAH Case No. 2017020538 ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

On February 9, 2017, Parent on behalf of Student filed a Due Process Hearing Request[1] (complaint) with the Office of Administrative Hearings naming Arcadia Unified School District and El Monte City School District. On February 24, 2017, Arcadia filed a 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.[2] 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.[3] These requirements prevent vague and confusing complaints, and promote fairness by providing the

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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 U.S.C. section 1415(b)(7)(A).

[2] 20 U.S.C. § 1415(b) & (c).

[3] 20 U.S.C. § 1415(b)(7)(A)(ii)(III) & (IV).

named parties with sufficient information to know how to prepare for the hearing and how to participate in resolution sessions and mediation.[4]

The complaint provides enough information when it provides "an awareness and understanding of the issues forming the basis of the complaint."[5] 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.[6] Whether the complaint is sufficient is a matter within the sound discretion of the Administrative Law Judge.[7]

DISCUSSION

Student alleges a failure on the part of Arcadia and El Monte City to comply with their child-find obligations under the IDEA. To support her claim, the complaint points to the efforts of Parent to obtain a special education assessment and her collaboration with Arcadia in September 2016 to develop a 504 plan to respond to Student's various medical diagnoses of bipolar disorder, sleep apnea and depression. According to the complaint, that same 504 plan provides for a number of accommodations such as preferential seating, additional time to complete assignments, additional instructions and an agenda check. The complaint goes on to allege that Student's mental health needs impeded her ability to attend school regularly and that the academic and social rigors of her educational placement were too demanding. This resulted in Student dis-enrolling from Arcadia and enrolling into Opportunities for Learning Public Charter Schools.

The facts alleged in Student's complaint are sufficient to put Arcadia on notice of the issue forming the basis of the complaint, specifically the failure to child-find. In construing the pleading requirements liberally, the complaint sufficiently identifies the nature of the

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

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

[6] *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.].

[7] Assistance to States for the Educ. of Children with Disabilities & Preschool Grants for Children with Disabilities, 71 FR 46, 540-46541, 46699 (Aug. 14, 2006).

problem and provides adequate related facts about that problem to permit Arcadia to respond to the complaint and prepare for and fully participate in a resolution session and mediation.[8]

Among Student's proposed resolutions is for Arcadia and El Monte City to fund an independent psycho-educational assessment and provide compensatory education. A complaint is required to include proposed resolutions to the problem, to the extent known and available to the party at the time. (20 U.S.C. §1415(b)(7)(A)(ii)(IV).) The proposed resolutions stated in Student's complaint are well-defined requests that meet the statutorily required standard of stating a resolution to the extent known and available to Student at the time

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: February 28, 2017

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Rommel Cruz
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ROMMEL CRUZ
Administrative Law Judge
Office of Administrative Hearings

[8] It is noted that while Student's complaint alleges that Arcadia should have assessed Student for possible special education eligibility, Student does not allege that if assessed she would have been found eligible for special education services, which would limit the relief the Administrative Law Judge could grant. (*Student v. Sacramento City Unified School District* (2012) Cal.Ofc.Admin.Hrngs. Case No. 2012040379, pp. 30-31.)