BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. ELK GROVE UNIFIED SCHOOL DISTRICT.	OAH Case No. 2015120601 ORDER DETERMINING DUE PROCESS COMPLAINT SUFFICIENT

On December 11, 2015, Parent, on behalf of Student (Student) filed a Due Process Hearing Request[1] (complaint) with the Office of Administrative Hearings naming Elk Grove Unified School District (District). On December 23, 2015, District timely 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. (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,

[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).

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

The complaint identifies Student as a 14 year old male, who lives within District boundaries and attends eighth grade at a District middle school. The complaint alleges Student has had an IEP since 2006. Student's most recent IEP is dated April 25, 2014.

The complaint states three issues. In sum: 1) District failed to meet its child-find obligations by falsely representing ADHD as Student's impairment; 2) District denied Student a free appropriate public education by failing to assess Student and find Student eligible for special education under the category of specific learning disability; and 3) District denied Student a FAPE by failing to consider Parent's concerns and to allow Parent to fully participate in educational decisions. The complaint alleges the dates of particular IEP meetings, identifies assessments and IEP's, the names of District staff involved, and details concerning Student's psychologist and his assessments. Parent's proposed resolutions include, among other things, reimbursement for expenses incurred with respect to a psychoeducational evaluation, a request for an order that District provide training to staff on the subject of the unique needs of student's with processing disorders, and reimbursement for alternative settings that are available to Student.

The facts alleged in Student's complaint are sufficient to put District on notice of the issues forming the basis of the complaint. Student's complaint identifies the issues and adequate related facts about the problems to permit District to respond to the complaint and participate in a resolution session and mediation, and to prepare for a due process hearing. Therefore, Student's complaint 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: December 28, 2015

/s/
MARIAN H. TULLY
Administrative Law Judge
Office of Administrative Hearings