BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

LAKE TAHOE UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2023040809

ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

MAY 3, 2023

On April 20, 2023, Parent on behalf of Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, called OAH, naming Lake Tahoe Unified School District, called Lake Tahoe. On May 2, 2023, Lake Tahoe 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.)

Student's complaint identifies 18 issues, labeled A to D, and A to N. The facts alleged in Student's complaint are sufficient to provide Lake Tahoe an awareness and understanding of the issues forming the basis of the complaint. For example, Student

alleges that Lake Tahoe failed its Child Find duty to identify Student as a child with a disability, ignored Parent's request to assess Student for special education, denied Parent the ability to meaningfully participate in the development of Student's educational program, and failed to provide appropriate individualized education programs, called IEPs, based upon various grounds, amongst other issues. While the issues are listed in a confusing manner, that problem can be addressed during the prehearing conference. Student's complaint identifies the issues and adequate facts about the problems to permit Lake Tahoe to respond and participate in a resolution session and mediation. Therefore, Student's statement of the claims is sufficient.

ORDER

1. The complaint is deemed sufficient under title 20 United States Code section 1415(c)(2)(C) and Education Code section 56502, subdivision (d)(1).
2. All mediation, prehearing conference, and hearing dates in this matter are confirmed.

Paul H. Kamoroff (May 4, 2023 08:08 PDT)

Paul H Kamoroff

Administrative Law Judge

Office of Administrative Hearings