BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: LOS ANGELES UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT.	OAH Case No. 2016100794 ORDER DENYING STUDENT'S NOTICE OF INSUFFICIENCY

On October 20, 2016, Los Angeles Unified School District filed a Due Process Hearing Request (complaint) with the Office of Administrative Hearings naming Parent on behalf of Student. On October 21, 2016, Student timely filed a Notice of Insufficiency as to District's complaint. On October 24, 2016, District filed a response to the NOI. For the reasons stated below, the complaint is sufficient.

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, 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

District's complaint alleges the following facts: District sent Parents an assessment plan on September 19, 2016, seeking to assess Student, based on concerns expressed by Parents to school staff regarding Student's educational program. On September 22, 2016, Student's counsel challenged the Assessment Plan in a letter to District. On September 23, 2016, District responded to Student's counsel. District's response included another copy of the Assessment Plan, a copy of Parents' Procedural Rights, and an explanation that the Assessment Plan was intended to be an early triennial educational assessment for Student. Parents did not consent to the Assessment Plan. The complaint identified two issues: 1) May District assess Student without parental consent pursuant to the Assessment Plan, and 2) If Parents refuse to make Student available for assessments, is District obligated to continue providing special education services? As proposed resolutions, District seeks orders consistent with its stated issues.

Student argues in its NOI that the complaint states no relevant facts, or omits important facts that invalidate District's claims. Student's opposition argues the merits of the complaint, which are not appropriately addressed in a notice of sufficiency.

The complaint alleges sufficient facts to put Student on notice of the issues forming the basis of the complaint. District's complaint identifies the issues and adequate related facts about the problem to permit Student to respond to the complaint and participate in mediation. District's statement of issues 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: October 26, 2016

DocuSigned by:
Adrienne L. Krikorian
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ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings