BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. VISALIA UNIFIED SCHOOL DISTRICT.	OAH Case No. 2018100901 ORDER DETERMINING DUE PROCESS COMPLAINT SUFFICIENT

On October 19, 2018, Student filed a due process hearing request[1] (complaint) with the Office of Administrative Hearings naming Visalia Unified School District. On October 30, 2018, Visalia filed a Notice of Insufficiency as to Student's complaint. On November 5, 2018, Student filed an opposition to Visalia's Notice of Insufficiency.

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

[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).

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 facts alleged in Student's complaint are sufficient to put Visalia on notice of the issues forming the basis of the complaint. Student is 16 years old. Student qualifies for special education services under the eligibility category of emotional disturbance. Student resides with his biological grandparents and holder of his educational rights within Visalia and attends 11th grade at a Visalia school. In sum, the complaint alleges that Visalia denied Student a free appropriate public education by failing to provide an appropriate individualized education program designed to meet his unique educational needs such that he could access an appropriate education, as required by the IDEA throughout the statutory period. The 19 page complaint alleges with particularity the events, dates, and documents (including quotes from IEP's) supporting Student's claims.

Student's proposed resolutions for this issue include: (1) an appropriate placement within the independent studies program; (2) additional annual IEP goals in all areas of need; (3) additional accommodations within Student's IEP; (4) one hour of 1:1 educationally related mental health services per week; (5) one hour of social skills training per week; (6) additional vocational training and coaching; (7) refer Student to an outside agency for vocational assessments and job placements, such as the California Department of Rehabilitation; (8) conduct evaluations in the following areas: assistive technology, speech and language, occupational therapy, and functional behavioral assessment; (9) fund an independent educational evaluation in psychoeducation, including transitional evaluations; and (10) provide Student with significant compensatory education services in the form of 1:1 academic tutoring by a nonpublic agency (NPA).

Student's complaint identifies the issue and adequate related facts about the problem to permit Visalia to respond to the complaint and participate in a resolution session, mediation, and prepare for 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: November 7, 2018

DocuSigned by:
Jackie C. Dai
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JACKIE C. DAI
Administrative Law Judge
Office of Administrative Hearings