BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2019050060
v.	ORDER GRANTING DISTRICT'S REQUEST FOR RECONSIDERATION, AND DETERMINING COMPLAINT SUFFICIENT
BURTON SCHOOL DISTRICT.	

On May 14, 2019, the undersigned administrative law judge issued an order that determined Student's due process complaint sufficient. On May 20, 2019, Burton School District filed a motion for reconsideration and the declaration of Jeremy Powell in Support. OAH did no receive a response from Student.

APPLICABLE LAW

The Office of Administrative Hearings will generally reconsider a ruling upon a showing of new or different facts, circumstances, or law justifying reconsideration when the party seeks reconsideration within a reasonable period of time. (See, e.g., Gov. Code, § 11521; Code Civ. Proc., § 1008.) The party seeking reconsideration may also be required to explain its failure to previously provide the different facts, circumstances, or law. (See *Baldwin v. Home Savings of America* (1997) 59 Cal.App.4th 1192, 1199-1200.)

DISCUSSION

Reconsideration

Burton seeks reconsideration of the Order Determining Complaint Sufficient because the undersigned ALJ relied upon the complaint, as well as attachments to the complaint, in making its ruling. The motion is accompanied by a sworn declaration by Jeremy Powell, director of Student Services with Burton. Mr. Powell testifies Parent served Mr. Powell on behalf of Burton, and he only received the four-page OAH form complaint.

In reviewing OAH's docket, the four-page complaint is accompanied by a one-page narrative dated April 16, 2019, with a "Received" stamp from OAH dated April 19, 2019.

There are several pages of teacher reports, and then a manila envelope with a postmark of April 27, 2019, and an OAH "Received" stamp dated May 1, 2019.

Because Mr. Powell testifies he did not receive the accompanying documents, and it is unclear whether OAH added the accompanying documentation to the file, or if it was all contained in the envelope by Parent, Burton's motion for reconsideration is granted.

Sufficiency of Due Process Complaint

On reconsideration, relying solely upon the four-page document filed by Student, Student lists as Problem #1 the denial of a one-on-one full-time aid and requests a one-on-one full-time aid as a resolution. Congress has legislated IDEA due process hearing procedures by "impos[ing] minimal pleading standards." (*Schaffer ex rel. Schaffer v. Weast,* 546 U.S. 49, 126 S.Ct. 528, 532, 163 L.Ed.2d 387 (2005).)

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 Individuals with Disabilities Act 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.)

Although lacking in detail, Student's complaint adequately identifies the issue and proposed resolution sufficient to permit Burton to participate in a resolution session and mediation and prepare for hearing.[1] Therefore, Student's complaint is sufficient.

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[1] The OAH docket also reflects that Burton filed a detailed substantive response to the complaint on May 6, 2019.

ORDER

Motion for Reconsideration is Granted.

After reconsideration of Burton's Notice of Insufficiency, the complaint is deemed sufficient under title 20 United States Code section 1415(c)(2)(C) and Education Code section 56502, subdivision (d)(1).

IT IS SO ORDERED.

DATE: May 24, 2019

DocuSigned by:

BRIAN H. KRIKORIAN
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Administrative Law Judge
Office of Administrative Hearings