BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. CULVER CITY UNIFIED SCHOOL DISTRICT.	OAH Case No. 2018110256 ORDER DETERMINING DUE PROCESS COMPLAINT SUFFICIENT

On November 07, 2018, Student filed a Due Process Hearing Request[1] (complaint) with the Office of Administrative Hearings, naming Culver City Unified School District. On November 20, 2018, 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, *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 District on notice of the issues forming the basis of the complaint. Student alleges that he is five years old, in transitional kindergarten, and eligible for special education under the categories of autism and speech and language impairment. Student alleges that District assessments in June 2017 found Student was unable to communicate verbally, had low cognitive ability, social emotional skills, and adaptive behavior/self-help skills, and delayed fine motor and visual motor skills.

Student contends to address his unique needs identified in District's assessments, , and obtain educational benefit, he required an individualized education program including, at least: a one-on-one behavior aide throughout the school day and extended school year; an augmentative and alternative communication device; 60 minutes per week, each, in individual and small group speech and language therapy; 60 minutes per week individual occupational therapy; and 30 minutes per week occupational therapy in a small group setting. Student alleges that District denied him a free appropriate public education at his September 13, 2017 IEP team meeting by failing to offer him an educational program including at least the above services, instead offering him services limited to 60 minutes per week small group speech and language therapy, and 30 minutes per week of occupational therapy.

As a proposed resolution, Student requests an order directing District to: provide Student the above services in his IEP; reimburse Parents the cost of private school tuition for the 2017-2018 school year and 2018 extended school year; reimburse Parents the cost of services necessary for Student that Parents obtained privately; and reimburse Parents the cost of services necessary for Student to be obtained by Parents from providers of Parents' choice.

Student's complaint identifies the issues and adequate related facts about the problem to permit District to respond to the complaint and participate in a resolution session and mediation, and to prepare for hearing.

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 25, 2018

DocuSigned by:

ROBERT G. MARTIN
Administrative Law Judge
Office of Administrative Hearings