BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

ELK GROVE UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2020030082

ORDER DETERMINING DUE PROCESS COMPLAINT SUFFICIENT

MARCH 17, 2020

On March 02, 2020, Parent on behalf of Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Elk Grove Unified School District. The Parent's complaint also listed various individual administrators as respondents. On March 3, 2020, OAH dismissed the individual parties. On March 16, 2020, Elk Grove filed a Notice of Insufficiency as to the complaint.

APPLICABLE LAW

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.)

DISCUSSION

Parent alleges that Student attends a high school, which is part of Elk Grove Unified. Parent contends Elk Grove Unified denied Student services and support "last year." Parent further pleads that Student is now experiencing a similar problem this year. Parent contends that Student went an entire year without "most of his services," and "still hasn't received said services." Parent alleges that Student was placed in an advanced placement type course, and was not given services in line with his individualized education program, referred to as an IEP. Parent contends Elk Grove Unified's representatives refused to comply with the IEP and offered Student a certificate of completion instead of a high school diploma. Parent seeks an order from OAH requiring Elk Grove Unified to adhere to, and implement, the IEP.

The facts alleged in Student's complaint are sufficient. Although Parent did not specifically list Elk Grove as a respondent in the caption, and only identified Elk Grove's personnel, Parent did list the name of the high school. A review of Parent's substantive allegations also makes it clear that her complaint is directed at Elk Grove Unified, and not another school district.

Student adequately lays out a factual basis for the issues in this matter. Student contends that Elk Grove Unified has not adequately implemented his IEP, and has placed him in courses beyond his abilities and without proper support. Although Student does not list a specific period, the complaint alleges that this occurred "last year" and continued on through the current school year. Since the complaint was filed on March 2, 2020, there are adequate facts for Elk Grove to glean the period of time in issue.

Student adequately pleads a factual basis for the alleged non-compliance with the IEP and requests for an order from OAH implementing the IEP as a remedy.

Finally, Parent pleads a request for additional resources through a 504 plan. To the extent Student seeks relief under Section 504 of the Rehabilitation Act, OAH does not have jurisdiction to entertain claims based on Section 504. Accordingly, that claim is dismissed. Otherwise, Student's complaint identifies the issues and adequate facts about the problem to permit Elk Grove Unified to respond and participate in a resolution session and mediation and prepare for a due process hearing. Student has also met the statutorily required standard regarding proposed resolutions.

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.

IT IS SO ORDERED.

DocuSigned by:

Brian H. Krikorian
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Administrative Law Judge
Office of Administrative Hearings