BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2018040202
v.	ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT
RIVERSIDE UNIFIED SCHOOL DISTRICT.	

On April 03, 2018 Student filed a Due Process Hearing Request[1] (complaint) with the Office of Administrative Hearings naming District. On April 13, 2018, District filed a Notice of Insufficiency and Motion to Dismiss as to Student's complaint.[2]

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.)

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[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).

[2] District filed a Motion to Dismiss claims outside the statute of limitations. Only the District's Notice of Insufficiency will be ruled on as all motions must be separately filed with OAH.

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

Student delineates eight Individualized Education Plans that District held for Student beginning the 2015-16 School Year. Student outlined the placement, services and goals written and offered by the District. However, Student does not allege that Student wishes to go beyond the two year of statute of limitation as claims for relief are from 2015-2016 school year to the present, which is within the two year statute of limitations, April 3, 2016 through the present. OAH will therefore presume that allegations regarding IEPs before April 3, 2016, are for historical purposes.[3] (Ed. Code, § 56505, subd. (l); see also 20 U.S.C. § 1415(f)(3)(C).) In some instances as to the IEP's on or after April 3, 2016, Student alleges those offers resulted in a denial of a Free and Appropriate Public Education. Student also identifies a very general list of Claims For Relief. Student should be on notice that at the Prehearing Conference and Due Process Hearing, Student will be limited to the factual allegations of a denial of FAPE set forth in the body of the complaint and identified under each specific IEP, rather than a general claim for relief as to all eight IEPs.

Student also alleges that on an unidentified date after the January 10, 2017 IEP, Student responded to the District in writing by consenting to the implementation of that IEP, listing exceptions, and requesting an Auditory Processing Assessment, which District failed to timely provide.

The facts alleged in Student's complaint are sufficient to put the District on notice of the issues forming the basis of the complaint. 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.

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[3] Nothing in this order prevents Student from filing an amended complaint that states explicitly that Student alleges that District denied Student a FAPE before April 3, 2016, and why the two year statute of limitations does not apply.

Therefore, Student's statement of claims is sufficient.

Student's proposed resolutions request an Order that District provide sufficient and appropriate goals in the areas of Specialized Academic Instruction, Speech and Language, including Augmentative and Alternative Communication, Behavior Services and Occupational Therapy; provide an Independent Auditory Processing Assessment; provide compensatory education; and reimbursement for attorney's fees. A complaint is required to include proposed resolutions to the problem, to the extent known and available to the party at the time. (20 U.S.C. §1415(b)(7)(A)(ii)(IV).) The proposed resolutions stated in Student's complaint are well-defined. Student has met the statutorily required standard of stating a resolution to the extent known and available to him at the time.

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: April 18, 2018

DocuSigned by:
Deborah Myers-Cregar
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DEBORAH MYERS-CREGAR
Administrative Law Judge
Office of Administrative Hearings