BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

HIGH TECH HIGH CHARTER SCHOOLS.

OAH CASE NUMBER 2019091119

ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

On September 30, 2019, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming High Tech High Charter Schools. On October 14, 2019, High Tech High 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

Student's complaint alleges nine claims in the complaint, some of which are sufficient and some which are insufficient. The issues are discussed below.

Issues 1, 2,3,4, 6, 7 and 9 are sufficiently pled to put High Tech High on notice as to the basis of Student's claims. These issues provided a specific complaint and facts sufficient to put High Tech High on notice of the basis of the complaint to allow High Tech to participate in the resolution period, mediation and prepare for due process.

With regard to Issue 5, Student fails to allege facts sufficient to put High Tech High of Student's allegation that High Tech High changed Student's curriculum during the 2017-2018, 2018-2019, and 2019-2020 school years. No facts were provided to support Student's allegation High Tech High changed Student's curriculum during the time period at issue.

With regard to Issue 8, Student alleges High Tech High denied Student a FAPE Student during the 2017-2018, 2018-2019, and 2019-2020 school years when it failed to materially implement Student's speech and language services. In Student's statement of fact, Student alleges "several times throughout the last two years." This is inconsistent with Student's pled issues. Student provided no facts in which to clarify which two years Student's speech and language services were not implemented beyond the vague statement of "several times throughout the last two years." This is insufficient to put High Tech High on notice of the basis of Student's complaint.

ORDER

1. Issues 1, 2, 3, 4, 6, 7 and 9, of Student's complaint are sufficient under title 20 U.S.C. section 1415(b)(7)(A)(ii).
2. Issues 5 and 8 of Student's complaint are insufficiently pled under title 20 United States Code section 1415(c)(2)(D).
3. Student shall be permitted to file an amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II).

4. The amended complaint shall comply with the requirements of title 20 U.S.C. section 1415(b)(7)(A)(ii), and shall be filed not later than 14 days from the date of this order. The filing of an amended complaint will restart the applicable timelines for a due process hearing.
5. If Student fails to file a timely amended complaint, the hearing shall proceed only on Issues 1,2, 3, 4, 6, 7 and 9 in Student's complaint.

IT IS SO ORDERED.

DocuSigned by:
Tiffany Gilmartin
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DATED: October 15, 2019

Tiffany Gilmartin
Administrative Law Judge
Office of Administrative Hearings