BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

PLACER COUNTY OFFICE OF EDUCATION, ROCKLIN UNIFIED SCHOOL DISTRICT AND DRY CREEK JOINT ELEMENTARY SCHOOL DISTRICT.

OAH CASE NUMBER 2019110852

ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

On November 21, 2019, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Placer County Office of Education, Rocklin Unified School District and Dry Creek Joint Elementary School District. On December 6, 2019, Dry Creek filed a timely 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

The complaint states that Dry Creek is a proper and necessary party to this action, alleging that Dry Creek is prohibiting Student from attending school within its boundaries and accessing her education pursuant to her current individualized education program. The complaint further alleges that Dry Creek is responsible to ensure that Student may receive a free appropriate public education and to maintain her safety and accessibility on the current school site. The complaint further alleges that an administrator or general education teacher from Dry Creek is in attendance at Student's individualized education program team meetings. The complaint explains that Student resides within Rocklin Unified School District and attends a special education program operated by the Placer County Office of Education that is physically co-located on a Dry Creek campus.

Dry Creek's Notice of Insufficiency is denied. The facts alleged in Student's complaint are sufficient. Student's complaint identifies the issues and adequate facts about the problem to permit Dry Creek to respond and participate in a resolution session and mediation. The complaint clearly provides "an awareness and understanding of the issues forming the basis of the complaint."

Dry Creek's Notice of Insufficiency is tantamount to a Motion to Dismiss for lack of jurisdiction over it. Dry Creek has previously, in its opposition to Student's Motion for Stay Put, argued that it should be dismissed. On December 3, 2019, OAH Issued a Notice of No Action with respect to that contention because the motion to dismiss was stated within an opposition to a motion for stay put rather than stated as a separate motion to dismiss. Similarly here, where the allegations are clear and understandable, the Notice of Insufficiency is not the proper vehicle by which to challenge Student's factual jurisdictional assertions

Therefore, Student's statement of the claims is sufficient.

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.

DATED: December 9, 2019

DocuSigned by:
June Lehrman
[illegible]

June Lehrman
Administrative Law Judge
Office of Administrative Hearings