BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2017050172
v.	ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT
MURRIETA VALLEY UNIFIED SCHOOL DISTRICT.	

On May 2, 2017, Student filed a due process hearing request[1] (complaint) with the Office of Administrative Hearings naming Murrieta Valley Unified School District. On May 5, 2017, Murrieta Valley 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,

[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).

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 contains a section titled Statement of Facts near the beginning of the complaint, and towards the end of the complaint is a section titled Issues/Resolutions which contains descriptions of eight issues, Issues A through H. Murrieta Valley claims that Issue C is insufficiently pled. This Issue alleges that Murrieta Valley did not adopt recommendations for designated instructional services contained in the reports of three independent educational evaluators. Murrieta Valley claims that it should not have to review each of these reports to determine what recommended services were not made available to Student, or were "not appropriate." Therefore Murrieta Valley claims that this issue is insufficiently pled.

An independent educational evaluation in the area of speech and language was conducted by Abby Rozenberg. In the Statement of Facts on page 12 of the complaint, lines 18 through 23, Ms. Rozenberg's recommendations are discussed, including a recommendation of individual sessions for speech and language therapy as well as group sessions.

Dr. Jerry Turner conducted an individual educational assessment in psycho-education. His recommendations are discussed in the Statement of Facts on pages 13 through 14 of the complaint. They include "[r]emedial training in phonics and phonemic strategies . . ." as well as teaching Student problem solving strategies; providing Student with his own applied behavioral analysis trained one-to-one aide supervised by a Board Certified Behavior Analyst; detailed data tracking; a new functional behavior assessment; and a recommendation that a manifestation determination meeting be held when Student is the subject of disciplinary action.

An independent educational evaluation was conducted by Dr. Eckman in the area of behavior. Her recommendations can be found in the Statement of Facts on page 16 of the complaint, with the recommendation that Student have a one-to-one "aide with BCBA supervision and consultation." According to the complaint Dr. Eckman explained that the

aide would address "task completion and social facilitation, behavior management and proper data collection."

The facts alleged in the Statement of Facts contained in Student's complaint concerning Issue C are sufficient to put the Murrieta Valley on notice of this Issue. The complaint in its entirety identifies the issues and adequate related facts about the problem to permit Murrieta Valley to respond to the complaint and participate in a resolution session and mediation.

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: May 12, 2017

DocuSigned by:
Rebecca Freie
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REBECCA FREIE
Administrative Law Judge
Office of Administrative Hearings