BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. EASTSIDE UNION SCHOOL DISTRICT, SNOWLINE JOINT UNIFIED SCHOOL DISTRICT AND ANTELOPE VALLEY UNION HIGH SCHOOL DISTRICT.	OAH Case No. 2017040093 ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

On May 5, 2017 OAH granted Student's motion to file a first amended Due Process Hearing Request[1] (complaint), naming Eastside Union High School District, Snowline Joint Unified School District and Antelope Valley Union High School District. On May 15, 2017, Antelope Valley Union High School District 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

[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).

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.)[2]

DISCUSSION

Student's complaint alleges ten claims in the 36 pages of his complaint. Each of Student's issues, with the exception of Issue Two, are insufficiently pled as to Antelope Valley Union School District as discussed below.

Student's Issue Two alleges Antelope Valley denied Student a FAPE by failing to provide appropriate supports and services pursuant to his rights under IDEA and the McKinney-Vento Homeless Assistance Act. Student has alleged attended school in Antelope Valley; he was a residence of Antelope Valley when he became homeless; and District did not invoke McKinney-Vento to assist him in remaining at his school of origin, thusly failing to implement his IEP and provide him a FAPE. Issue Two contains the required notice of a description of the problem and the facts relating to the problem. Issue Two is sufficient.

The remainder of Student's complaint is insufficiently pled in that it fails to provide Antelope Valley Union School District with the required notice of a description of the problem and the facts relating to the problem.

The remaining issues contained in Student's complaint name three school districts, and reference the combined three districts in each issue as "Respondents. The remaining issues spans the entire statutory period of April 3, 2014 to the date of original filing on April 3, 2017. While Student alleges Antelope Valley as his school district of residence for periods of time, including pursuant to the McKinney-Vento Homeless Assistance Act, Student has failed to sufficiently segregate the specific claims against Antelope Valley.

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[2] OAH dismissed Student's request for expedited hearing and Expedited Issue One on April 24, 2017.

Student's complaint fails to differentiate which District is allegedly responsible for what act or omission. Student fails to specifically indicate which IEPs or assessments he alleges involve Antelope Valley instead of the other two "Respondents." Other than alleging Antelope Valley failed in its duties under McKinney-Vento, Student failed to provide sufficient information which links Antelope Valley individually to the remaining claims with any clarity. No specific time frame is provided for failure to assess. No specific information is provided regarding any IEP involving Antelope Valley or how Antelope Valley knew of or was involved in an alleged denial of FAPE while Student attended school in either of the other two school districts. The complaint is overly broad, vague, and confusing to sufficiently put Antelope Valley's on notice of its specific involvement in any of Student's remaining claims. Student's Issues One, Three, Four, Five, Six, Seven, Eight (a), (b), (c) and (d) are insufficient as to Antelope Valley.

ORDER

1. Issue Two of Student's complaint is sufficient as to Antelope Valley Union High School District under title 20 U.S.C. section 1415(b)(7)(A)(ii).

2. Issues One, Three, Four, Five, Six, Seven and Eight (a)(b)(c) and (d) of Student's complaint are insufficiently pled as to Antelope Valley Union High School District 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).[3]

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.

5. If Student fails to file a timely amended complaint, the hearing shall proceed only on Issue Two in Student's complaint as to Antelope Valley Union High School District.

[3] The filing of an amended complaint will restart the applicable timelines for a due process hearing.

6. Student's first amended complaint shall proceed to hearing on all issues as to Eastside Union School District, and Snowline Joint Unified School District.

DATE: May 19 2017

DocuSigned by:
Judith Pasewark
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JUDITH PASEWARK
Administrative Law Judge
Office of Administrative Hearings