BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of: DUBLIN UNIFIED SCHOOL DISTRICT, v. PARENT ON BEHALF OF STUDENT,	OAH Case No. 2018020296
PARENT ON BEHALF OF STUDENT, v. DUBLIN UNIFIED SCHOOL DISTRICT.	OAH Case No. 2018020990 ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

On February 6, 2018 Dublin Unified School District filed a Due Process Hearing Request[1] (complaint) with the Office of Administrative Hearings naming Student. Student filed a Due Process Hearing Request along with motion to consolidate the cases on February 26, 2018. On April 19, 2018, Dublin Unified School District filed a motion to amend its request for Due Process Hearing. Dublin filed a motion for its second amended complaint on May 16, 2018. On May 18, 2018, Student filed a Notice of Insufficiency as to Dublin'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

[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).

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, *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 facts alleged in District's complaint are sufficient to put the Student on notice of the issues forming the basis of the complaint. Student alleges District did not identify a specific time period in which District seeks an order to determine whether Student requires a residential placement to receive a free appropriate public education.

Facts within District's second amended complaint are sufficient to put Student on notice the time period in question is specifically related to the placement issue that arose on or about April 2018 when Student was expelled from his non-public school. District's complaint identifies the issues and adequate related facts about the problem to permit Student to respond to the complaint and participate in mediation.

Therefore, District's statement of the one claim 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.

DATE: May 21, 2018

DocuSigned by:
Tiffany Gilmartin
71D0D50BAEB74A1...

TIFFANY GILMARTIN
Administrative Law Judge
Office of Administrative Hearings