BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2017010718
v.	ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT
RIVERSIDE UNIFIED SCHOOL DISTRICT.	

On January 23, 2017, Student filed a Request for Due Process Hearing[1] (complaint) with the Office of Administrative Hearings naming Riverside Unified School District. On February 7, 2017, District timely filed a Notice of Insufficiency as to Student's complaint.

APPLICABLE LAW

Pursuant to the Individuals with Disabilities Education Act, any party has the opportunity to present a complaint with respect to any matter relating to the identification, evaluation, or educational placement of a child, or the provision of a free appropriate public education to such child. (20 U.S.C. § 1415(b)(6)(A).) A party named in the complaint has the right to challenge its sufficiency. (20 U.S.C. § 1415(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)(ii).

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.)

[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).

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 contains five issues, ten pages of facts to support the issues, and seven proposed resolutions. Issues One, Two, and Three involve allegations related to the District's provision of a free appropriate public education to Student. Issue Four involves allegations related to the Title II of the Americans with Disabilities Act (ADA). Issue Five involves allegations related to Section 504 of the Rehabilitation Act of 1973 (Section 504).

District does not challenge the sufficiency of Issues One, Two, or Three. District challenges the sufficiency of Issues Four and Five in the complaint, arguing they are improperly raised because Student has not exhausted his administrative remedies under the ADA and Section 504, respectively.[2] District also challenges the sufficiency of each proposed resolution, arguing they are vague.

Student's complaint reveals that it includes a description of the nature of Student's problems with District, detailed facts relating to those problems, and proposed resolutions of the problems sufficient to put District on notice of the issues forming the basis of the complaint, and to allow District to prepare for a resolution session, mediation, and/or hearing.

ORDER

1. The complaint is sufficient under title 20 United States Code section 1415(b)(7)(A)(ii).

[2] District does not challenge the Office of Administrative Hearing's jurisdiction with respect to Issues Four and Five so it will not be addressed in this Order.

2. All mediation, prehearing conference, and hearing dates in this matter are confirmed.

DATE: February 8, 2017

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Tara Doss
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TARA DOSS
Administrative Law Judge
Office of Administrative Hearings