BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. REDLANDS UNIFIED SCHOOL DISTRICT AND EAST VALLEY SPECIAL EDUCATION LOCAL PLAN AREA.	OAH Case No. 2017040185 ORDER DETERMINING DUE PROCESS COMPLAINT TO BE INSUFFICIENTLY PLED

On March 29, 2017, Parent on behalf of Student filed a Due Process Hearing Request[1] (complaint) with the Office of Administrative Hearings naming Redlands Unified School District and East Valley Special Education Local Plan Area. On April 6, 2017, East Valley filed a Notice of Insufficiency as to Student's complaint. Student did not file a response to the NOI.

APPLICABLE LAW

The named parties to a due process hearing request have the right to challenge the sufficiency of the complaint.[2] 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.[3] These requirements prevent vague and confusing complaints, and promote fairness by providing the

[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).

[2] 20 U.S.C. § 1415(b) & (c).

[3] 20 U.S.C. § 1415(b)(7)(A)(ii)(III) & (IV).

named parties with sufficient information to know how to prepare for the hearing and how to participate in resolution sessions and mediation.[4]

The complaint provides enough information when it provides "an awareness and understanding of the issues forming the basis of the complaint."[5] 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.[6] Whether the complaint is sufficient is a matter within the sound discretion of the Administrative Law Judge.[7]

DISCUSSION

Student's complaint refers to Redlands as "District" and East Valley as "Respondent." However, the complaint allegations are not clear as to the responsible entity as Student's complaint eventually begins to intermingle terms so the reader is not clear who is the responsible party. Student should have simply referred to Redlands and East Valley to avoid any confusion as to which entity, or both, was the responsible party. Accordingly, Student's complaint is not adequately pled.[8]

Among Student's proposed resolutions are that Student be provided compensatory services, a one-to-one aide, extended school year eligibility, a formal behavioral/adaptability skills program, and publicly funded independent educational evaluations. A complaint is required to include proposed resolutions to the problem, to the extent known and available to the party at the time. (20 U.S.C. § 1415(b)(7)(A)(ii)(IV).) The proposed resolutions stated

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[4] See H.R.Rep. No. 108-77, 1st Sess. (2003), p. 115; Sen. Rep. No. 108-185, 1st Sess. (2003), pp. 34-35.

[5] Sen. Rep. No. 108-185, *supra*, at p. 34.

[6] *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.].

[7] Assistance to States for the Educ. of Children with Disabilities & Preschool Grants for Children with Disabilities, 71 FR 46540-46541, 46699 (Aug. 14, 2006).

[8] East Valley's contention that Student's complaint fails to demonstrate that East Valley has been involved in decisions regarding Student or has provided special education or related services to her is not appropriate for an NOI which just addresses pleading adequacy. Such an analysis as to the responsible public agency is for a motion to dismiss.

in Student's complaint are well-defined requests that meet the statutorily required standard of stating a resolution to the extent known and available to Student at the time. However, the proposed resolution is confusing as to whether only East Valley would be the responsible party.

ORDER

1. Student's complaint is insufficiently pled as to East Valley SELPA and Redlands Unified School District under title 20 United States Code section 1415(c)(2)(D).

2. Student shall be permitted to file an amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II).[9]

3. The amended complaint shall comply with the requirements of title 20 United States Code section 1415(b)(7)(A)(ii), and shall be filed no later than 14 days from the date of this order.

4. If Student fails to file a timely amended complaint, the complaint will be dismissed as to both East Valley SELPA and Redlands Unified School District.

DATE: April 11, 2017

DocuSigned by:
Rommel P. Cruz
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ROMMEL P. CRUZ
Administrative Law Judge
Office of Administrative Hearings

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