BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2018030769
v.	ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT
HIGH TECH HIGH NORTH COUNTY.	

On March 19, 2018, Student filed a due process hearing request[1] (complaint) with the Office of Administrative Hearings naming High Tech High North County. On April 3, 2018, High Tech High filed a notice of insufficiency as to Issue 1C in Student's complaint. On April 4, 2018, Student filed a response to High Tech High's notice of insufficiency.

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 is 13 pages long. Student begins her presentation of an issue containing six subissues on page 12. The previous pages contain a somewhat chronological recitation of facts which, if found true, would support these subissues. High Tech High claims that subissue 1C, which alleges that Student was denied a FAPE because Parent was denied "the opportunity to meaningfully participate in Student's educational process[,]" is insufficiently pled because it cannot determine which factual allegations in the complaint pertain to the issue. Further, it claims, Student did not attend High Tech High during the 2015-2016 school year, which is one of the years at issue.

Generally, Student alleges that her school history shows that she struggles academically, has had to make up failed classes in summer school, and that she was not found eligible for special education until the beginning of the 2017-2018 school year. The complaint refers to numerous alleged communications between Parent and High Tech High during the 2016-2017 school year in which Parent told the school that Student had been diagnosed with epilepsy, and was also injured in a car accident. These facts, if found true, indicate that High Tech High ignored Parent's communications, thus denying her meaningful participation in Student's education. While it is helpful if alleged facts pertaining to an issue are summarized when the issue is stated, this is not a requirement for a complaint to be found sufficient. Further clarification of the issues pled can be addressed at the telephonic prehearing conference in this matter. Subissue 1C is found to be sufficiently pled.

ORDER

1. The complaint is deemed sufficient under title 20 United States Code section 1415(c)(2)(C) and Education Code section 56502, subdivision (d)(1).

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

DATE: April 5, 2018

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