BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

SACRAMENTO CITY UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2022100579

ORDER FINDING DUE PROCESS COMPLAINT SUFFICIENT

NOVEMBER 8, 2022

On October 20, 2022, Parent on behalf of Student filed a due process hearing request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Sacramento City Unified School District. On November 4, 2022, Sacramento timely filed a notice of insufficiency as to the resolutions sought in the complaint.

The named parties have the right to challenge the complaint's sufficiency. (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 describes the problem relating to the proposed change regarding the Student's identification, evaluation, or educational placement, or providing the Student a free appropriate public education, called a FAPE, includes facts about the problem, and includes a proposed resolution 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, and 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.)

Student, a five-year-old in kindergarten, alleges nine claims contending that the August 16, 2021 individualized education program, or IEP, failed to offer Student a FAPE for the 2021-2022 school year.

Student alleges at Issue 1 that occupational therapy and speech language assessments done in July 2020 demonstrated that Student required more occupational therapy and speech therapy than offered in the August 16, 2021 IEP. Issue 2 alleges that Student required extended school year services in summer 2022 that were not offered. Issue 3 alleges that Sacramento added additional goals to Student's August 16, 2021

IEP, but did not increase the amount of services although Student had not met her previous goals. Also, that Sacramento failed to write behavior goals despite significant reports of behavioral issues that would impede learning, and failed to write goals to adequately address Student's needs. At Issue 4, Student alleges that Sacramento did not evaluate Student between June 2020 and the August 2021 IEP, and failed to offer services to address Student's regression in academics and behavior.

Student alleges at Issue 5 that she required a functional behavior analysis and behavior intervention plan in order to access the curriculum, but neither was offered for the 2021-2022 school year. At Issues 6 through 8, Student alleges that Sacramento should have offered her a one-to-one aide, in-home applied behavior analysis services and clinical meetings, and parent training on addressing Student's behaviors and communication deficits. At Issue 9, Student alleges that Sacramento did not offer Student placement in the least restrictive environment to maximize her access to typically developing peers as role models.

The facts alleged in Student's complaint are sufficient. Student's complaint identifies the issues and adequate facts about the problem to permit Sacramento to respond and participate in a resolution session and mediation.

The proposed resolution stated in Student's complaint are well-defined, but also, sometimes disingenuous. Student seeks an order for prospective services, and that Sacramento fund in-home applied behavior analysis services, issue accurate progress reports, provide a one-to-one aide throughout Student's school day, provide parent training, place Student in the general education classroom to the maximum extent possible, and offer extended school year in summer 2022 and 2023.

However, Student also requests an order that Sacramento develop goals for Student in a generic laundry list of over 70 areas, most of which do not apply to Student, such as comprehensive literature, algebra and algebraic thinking, and geometry, to name a few. Nonetheless, the areas in which Student requires goals is a matter of proof for the due process hearing, and Sacramento has adequate notice of the areas in which Student contends that goals should have been written.

The complaint includes a second remedies request, seeking a fund of hundreds of thousands of dollars for hours for compensatory education, behavioral services, and assessments. Sacramento asserts that it requires a dollar-for-dollar calculation of how Student arrived at this amount, but this argument is not persuasive. Student's requested remedies are sufficiently related to Student's alleged loss of educational opportunities. The type, amount, duration, and need for the services Student seeks to have funded will be a matter for proof at the due process hearing. Accordingly, the complaint met the statutorily required standard regarding proposed resolutions.

ORDER

1. The complaint is sufficient under title 20 United States Code section 1415(b)(7)(A)(ii).
2. All prehearing conference and hearing dates in this matter are confirmed.

Alexa Hohensee

Alexa Hohensee
Administrative Law Judge
Office of Administrative Hearings