BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

RIVERSIDE UNIFIED SCHOOL DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NUMBER 2024010011

ORDER DETERMINING DUE PROCESS COMPLAINT SUFFICIENT

JANUARY 5, 2024

On December 29, 2023, Riverside Unified School District, referred to as Riverside, filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Student. Riverside seeks a decision that Student is not entitled to a publicly-funded independent educational evaluation in occupational therapy by Student's proposed independent evaluator, because the evaluator does not meet Riverside's Agency Criteria for independent evaluators. On January 2, 2024, Parents on behalf of Student filed a Notice of Insufficiency as to 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: (1) 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; (2) includes facts about the problem; and (3) 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. (*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.)

Riverside alleges Parents requested an independent educational evaluation, called an IEE, of Student's needs in the area of occupational therapy in November 2023. Riverside alleges it agreed on November 14, 2023 to fund such an IEE by an evaluator meeting Riverside's Agency Criteria for independent evaluators, and gave Parents a copy of its Agency Criteria for independent assessors, and a non-exclusive list of evaluators satisfying the Agency Criteria list. Riverside contends the qualifications, geographical location, and cost requirements in its agency criteria were legally appropriate and not so narrow that they impeded on Parents' right to an IEE.

Riverside alleges Parents chose a proposed independent occupational therapy assessor who was not on Riverside's list of pre-approved assessors, and who did not meet its Agency Criteria. Riverside contends it notified Parents their proposed assessor did not meet its criteria, and unsuccessfully sought information from Parents regarding any extenuating circumstances that would require Riverside to consider agreeing to their proposed evaluator even though the evaluator did not meet Riverside's criteria. Riverside seeks a decision holding that Riverside is not required to fund an IEE for Student in the area of occupational therapy by Parents' proposed independent evaluator. Student contends Riverside's complaint is insufficient because it did not state specific facts describing how Student's proposed assessor fails to satisfy Riverside's Agency Criteria for independent occupational therapy assessors. Student offered no legal authority supporting a requirement that Riverside state facts describing how Student's proposed assessor did not meet Riverside's agency criteria for an independent assessor. Student suggested Riverside's failure to provide further detail was akin to a student filing a complaint alleging that a district denied the student a free appropriate

public education, called a FAPE, without no explanation how, but the analogy is not apt. There are only a few possible Agency Criteria for independent assessors, and many ways FAPE may be denied. Additional information regarding the nature of an alleged FAPE denial may therefore be necessary to provide a district sufficient information to know how to prepare for the hearing and how to participate in resolution sessions and mediation.

Parents also contend the complaint is insufficient because Agency Criteria for independent evaluators are unenforceable if they are unlawful, and Riverside failed to allege facts and law supporting the lawfulness of its criteria, including support for its assertion that its criteria did not impede Parents' right to an independent evaluation. However, detailed factual information and legal argument is not required at the pleading stage to provide the required awareness and understanding of the issues forming the basis of the complaint.

Riverside's complaint contained enough information to provide Parents an awareness and understanding of the issues forming the basis of the complaint, and to prepare for resolution sessions, mediation, and hearing. Therefore, Riverside's statement of its sole issue for hearing is sufficient.

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.

IT IS SO ORDERED.



Robert G. Martin

Administrative Law Judge

Office of Administrative Hearings