BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. BUCKEYE UNION ELEMENTARY SCHOOL DISTRICT AND EL DORADO COUNTY OFFICE OF EDUCATION.	OAH Case No. 2018060728 ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

On June 15, 2018, Student filed a Due Process Hearing Request[1] (complaint) with the Office of Administrative Hearings naming Buckeye Union Elementary School District, El Dorado County Office of Education, and unidentified other "Respondents." The complaint refers to the El Dorado County Office of Education as a "SELPA," and states that all its allegations pertain to District, "SELPA," and "Respondents."

On June 29, 2018, El Dorado County Office of Education, which is a specifically named party, and El Dorado County SELPA, which is not specifically named but was apparently an intended respondent, both filed a joint Notice of Insufficiency. The NOI argues that the complaint was confusing as to these named parties. The NOI also argues that neither El Dorado County Office of Education, nor El Dorado County SELPA, had any actual involvement in Student's educational program.

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

[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).

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.)

DISCUSSION

The facts alleged in Student's complaint are sufficient to put the parties on notice of the issues forming the basis of the complaint. Student's complaint identifies the issues and adequate related facts about the problem to permit all respondents to respond to the complaint and participate in a resolution session and mediation. Student alleges that District (and by incorporation the other "Respondents") failed in their child find obligations; failed to appropriately assess Student in all areas of suspected need and specifically in the area of functional behavior; failed to provide prior written notice; denied parental participation in the development of Student's individualized education program; predetermined Student's educational program; failed to provide records; failed to identify Student's unique needs; and failed to develop appropriate baseline levels and goals. The complaint attached IEP documents that contain El Dorado County SELPA in the headings. Student's statement of the claims is sufficient. To the extent the Respondents argue factually that they were not involved in Student's educational program, that is a matter for hearing and not motion practice.

ORDER

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

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

DATE: June 29, 2018

DocuSigned by:
June Lehrman
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JUNE LEHRMAN
Administrative Law Judge
Office of Administrative Hearings