BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

MENIFEE UNION SCHOOL DISTRICT.

OAH CASE NUMBER 2023050129

ORDER DETERMINING DUE PROCESS COMPLAINT SUFFICIENT

MAY 11, 2023

On May 2, 2023, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Menifee Union School District as respondent. On May 11, 2023, Menifee filed a Notice of Insufficiency as to the complaint.

APPLICABLE LAW

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.] 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 46541, 46699.)

COMPLAINT SUFFICIENCY DETERMINATION

The facts alleged in Students complaint are sufficient. Student's complaint identifies the issues and adequate facts about the problem to permit Menifee to

respond and participate in a resolution session and mediation.

Menifee asserts the complaint is insufficient because it does not state the dates of the IEPs at issue, the extended school year at issue or, in the case of Issue 3, the service at issue. However, the claims are stated in the present tense indicating current disputes on these issues. Issue 3 describes the concerns regarding the lack of clarity in the IEP. As stated, the complaint provides Menifee with enough information to prepare for resolution session, mediation and hearing. If Menifee believes it requires additional information after discussions during the resolution session, further clarification can be sought at the prehearing conference.

Menifee also asserts that the proposed resolutions are insufficient, as they do not clearly state what is being sought to resolve the case. 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 in Student's complaint ask for extended school year services and additional clarity in the IEP document. Student has met the statutorily required standard of stating a resolution to the extent known and available at the time the complaint was filed.

ORDER

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

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

IT IS SO ORDERED.

Penelope Pahl

Penelope S. Pahl

Administrative Law Judge

Office of Administrative Hearings