BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2017100017
v.	ORDER DETERMINING SUFFICIENCY OF DUE PROCESS COMPLAINT
HARBOR SPRINGS CHARTER SCHOOL.	

On September 28, 2017 Student filed a Due Process Hearing Request[1] (complaint) with the Office of Administrative Hearing naming Harbor Springs Charter School (District). On October 13, 2017, District timely filed a Notice of Insufficiency as to Student's complaint.

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, *supra*, at p. 34.) The pleading requirements should be liberally construed in light of the

[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).

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 complaint alleges Student, who had an IEP, initially enrolled in District for the 2015-2016 school year. Student is eligible for special education under the categories of Emotional Disturbance, due to anxiety and posttraumatic stress disorder, and Other Health Impairment, due to attention deficit hyperactivity disorder, which negatively impacted his academic progress and behavior. The complaint alleges claims against District for the 2015-2016, and 2016-2017 school years.

Student had five goals, developed at his prior school. The complaint alleges that, during the 2015-2016 school year, District failed to convene an IEP meeting shortly after Student first enrolled to provide him an interim placement. District also failed to timely conduct Student's annual IEP meeting.

During the 2016-2017 school year, District prepared an assessment plan proposing assessments of Student in six areas, along with a classroom observation by a special education teacher. Student alleges all the proposed assessments were not conducted and the observation was deficient. The complaint contends Student was far behind academically. The complaint also alleges Parent requested an educationally related mental health assessment, and that District failed to timely and appropriately conduct that assessment and hold an IEP team meeting to discuss it. The complaint further alleges District failed to develop measurable goals in all areas of Student's needs and should have held an IEP meeting to address his lack of anticipated progress.

Even though the complaint states it is presenting only one issue with eight subparts, the complaint actually alleges eight separate issues, identified as issue #1 (A)-(H). Each of these issues is sufficiently pled.

Adequate facts are alleged regarding District's failure to timely hold various required IEP meetings and to timely and properly conduct assessments. The complaint also contends Student was falling far behind academically and no IEP meeting was held to address his lack of progress. The facts alleged in Student's complaint are sufficient to put District on notice of the issues forming the basis of the complaint. Student's complaint identifies these issues

and adequate related facts about the problems to permit District to respond to those issues and participate in a resolution session and mediation, and to prepare for hearing on those issues.

Student's proposed resolutions requests are: independent educational assessments in all suspected areas of disability; compensatory education; staff training; and any other relief that may be appropriate. 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 are not well-defined. However, Student has met the statutorily required standard of stating a resolution to the extent known and available to him at the time.

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: October 18, 2017

DocuSigned by:
Marian H. Tully
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By Marian H. Tully,
Acting Presiding Administrative Law Judge

CHRISTINE ARDEN
Administrative Law Judge
Office of Administrative Hearings