BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. SEQUOIA UNION HIGH SCHOOL DISTRICT.	OAH CASE NO. 2013070612 ORDER DENYING NOTICE OF INSUFFICIENCY

On July 16, 2013, Parent on behalf of Student filed a Due Process Hearing Request[1] (complaint) naming Sequoia Union High School District (District). On July 31, 2013 District timely filed a Notice of Insufficiency (NOI) as to Student's complaint. For the reasons discussed below, the NOI is denied.

APPLICABLE LAW

The named parties to a due process hearing request have the right to challenge the sufficiency of the complaint.[2] 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 (FAPE) 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.[3] These requirements prevent vague and confusing complaints, and promote fairness by providing the

[1] A request for a due process hearing under Education Code section 56502 is the due process complaint notice required under Title 20 United States Code section 1415(b)(7)(A).

[2] 20 U.S.C. § 1415(b) & (c).

[3] 20 U.S.C. § 1415(b)(7)(A)(ii)(III) & (IV).

named parties with sufficient information to know how to prepare for the hearing and how to participate in resolution sessions and mediation.[4]

The complaint provides enough information when it provides "an awareness and understanding of the issues forming the basis of the complaint."[5] 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.[6] Whether the complaint is sufficient is a matter within the sound discretion of the Administrative Law Judge.[7]

DISCUSSION

Student's complaint identifies four separate "problems."

Problems 1 and 2 allege that District substantively and procedurally denied Student a FAPE during the 2011-2012, 2012-2013 school years. Problem 1 includes 12 specifically defined sub-issues relating to Student's allegations of substantive denial of FAPE. Problem 2 identifies six specifically defined sub-issues relating to Student's allegations of procedural violations.

Problem 3 alleges that District denied Student a FAPE during the statutory period by failing to appropriately assess him in the areas of assistive technology, transition and executive functioning.

Problem 4 alleges that District denied Student a FAPE for the 2013-2014 school year by failing to offer him an appropriate educational program. Problem 4 is broken down into ten specifically defined sub-issues.

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[4] See, H.R.Rep. No. 108-77, 1st Sess. (2003), p. 115; Sen. Rep. No. 108-185, 1st Sess. (2003), pp. 34-35.

[5] Sen. Rep. No. 108-185, *supra*, at p. 34.

[6] *Alexandra R. v. Brookline School Dist*. (D.N.H., Sept. 10, 2009, No. 06-cv-0215-JL) 2009 WL 2957991 at p.3 [nonpub. opn.]; *Escambia County Board 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, No. 8:04CV2657T24EAJ) 2005 WL 2850076 at p. 3[nonpub. opn.] ; but cf. *M.S.-G. v. Lenape Regional High School Dist.* (3d Cir. 2009) 306 Fed.Appx. 772, at p. 3[nonpub. opn.].

[7] Assistance to States for the Education of Children With Disabilities and Preschool Grants for Children With Disabilities, 71 Fed.Reg. 46540-46541, 46699 (Aug. 14, 2006).

The complaint contains 59 paragraphs of chronologically stated facts that, when read as a whole, adequately relate to the 31 sub-issues identified in the complaint. The complaint identifies proposed resolutions including compensatory educational and related services, and independent educational evaluations.

The facts alleged in Student's complaint and proposed resolutions are sufficient to put the District on notice of the issues forming the basis of the complaint. Student's complaint sufficiently identifies the issues and adequate related facts about the problem to permit District/Student to respond to the complaint and participate in a resolution session and mediation. Therefore, Student's complaint is sufficient.

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.

Dated: August 1, 2013

/s/
ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings