BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

REDLANDS UNIFIED SCHOOL DISTRICT AND

EAST VALLEY SPECIAL EDUCATION LOCAL PLAN AREA.

OAH CASE NUMBER 2021040820

ORDER FINDING ISSUE 3 OF DUE PROCESS COMPLAINT SUFFICIENT

MAY 6, 2021

On April 26, 202, Student filed a due process hearing request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Redlands Unified School District and East Valley Special Education Local Plan Area, referred to as East Valley SELPA. On May 5, 2021, Redlands and East Valley SELPA filed a notice of insufficiency as to Issue 3 of the complaint. Student filed an opposition on May 5, 2021, and Redlands and East Valley SELPA files a response to the opposition on May 6, 2021.

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).

Title 20 United States Code section 1415(k)(3) permits a party to request an expedited hearing for specific reasons. Specifically, an expedited hearing can be requested to appeal to appeal a disciplinary change of placement, such as placement in an alternative education setting or a manifestation determination regarding student conduct. This section requires an expedited hearing start within 20 school days from the hearing request. There is no provision for expedited hearings under section 1415(k) to test the complaint's sufficiency. Indeed, there is insufficient time to complete the NOI process in expedited hearings.

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.)

DISCUSSION

Student's complaint alleges three claims against Redlands and East Valley SELPA. Student alleges that Redlands and East Valley SELPA changed Student's placement due to behavioral incidents without a manifestation determination, that Redlands failed to timely evaluate Student prior to changing placement, and that Redlands and East Valley SELPA failed to offer Student a FAPE for the 2019-2020 and 2020-2021 school years. The complaint is scheduled for both an expedited hearing and an unexpedited hearing. Issue 3 is not an expedited issue, and accordingly, Redlands and SELPA may challenge that issue by notice of insufficiency.

The facts alleged in Student's Issue 3 are sufficient. Student alleges that, at an IEP team meeting in May 2020, it was reported that Student continued to have behavioral incidents at the out-of-state residential treatment center where he was placed, but Redlands and East Valley SELPA determined that Student would be transferred to a less restrictive facility in California. Student alleges no other facts regarding the 2019-2020

school year, but alleges extensive details about how placement in a less restrictive California facility failed to reduce Student's violent behavior and resulted in the facility refusing to serve Student after he violently attacked and injured other students. Student alleges that the failure of Redlands and East Valley SELPA to offer him a new residential placement after the incident resulted in Student's extended confinement in a hospital. Student's complaint identifies the issues and adequate facts about Issue 3 to permit Redlands and East Valley SELPA to respond and participate in a resolution session and mediation.

Therefore, Student's statement of Issue 3 is sufficient.

ORDER

1. Issue 3 of 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.

Alexa Hohensee

Alexa Hohensee
Administrative Law Judge
Office of Administrative Hearings