BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2018110450
v.	ORDER OF DETERMINATION OF SUFFICIENCYOF DUE PROCESS COMPLAINT AND DENYING MOTION TO DISMISS AS MOOT
THE CLASSICAL ACADEMIES-COASTAL CHARTER ACADEMY	

On November 12, 2018 Parent on behalf of Student filed a Due Process Hearing Request[1] (complaint) with the Office of Administrative Hearings naming the Classical Academies as respondent. On November 19, 2018, The Classical Academies – Coastal Charter Academy (Coastal) filed a Notice of Insufficiency as to Student's complaint. Coastal also filed a Motion to Dismiss Student's complaint on November 19, 2018.

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

Insufficiency of Issues

Student's complaint alleges four claims, which are all insufficiently pled in that they fail to provide Coastal with the required description of the problem and the facts relating to the problem. Additionally, Coastal argues that the complaint fails to actually name the Charter school as a party. In some of the claims, the information is difficult to decipher as the handwriting is not clear.

As to Coastal's assertion that they were not actually named in the complaint, the designation of The Classical Academies as Student's school of attendance coupled with the service on employees of The Classical Academies puts the school on notice that it has been named as a party to this complaint. All that is required of a complaint in a special education case is the clear statement of a problem related to a child's special education or denial of special education and/or related services and a suggested resolution to the problem. The pleading standard is minimal. The Classical Academies which is a Coastal Charter School, according to Coastal's filings, received adequate notice that Parents were naming them as the responding party to this complaint.

However, while the pleading standard is minimal, the complaint does need to state a problem over which the Office of Administrative Hearing Special Education Division has jurisdiction. OAH is not allowed to consider claims of issues unless they are violations of the Individuals with Disabilities in Education Act (IDEA) or the related California statutes. Overall, there are no facts stated in the complaint that indicate Student is a child with a disability who is currently eligible for services pursuant to the IDEA. Nor do the facts pled indicate that there is a dispute regarding Student's eligibility for special education or a failure on the part of the Charter School to assess Student for special education. The complaint refers only to a request for accommodations pursuant to Section 504 of the Rehabilitation Act of 1973. The Office of Administrative Hearings does not have jurisdiction over claims of failure to provide Section 504 accommodations unless they are associated with a denial of a free, appropriate public education pursuant to the IDEA or related California law.

Mediator Assistance Available

A parent who is not represented by an attorney may request that OAH provide a mediator to assist the parent in identifying the issues and proposed resolutions that must be included in a complaint. (Ed. Code, § 56505.) Parents are encouraged to contact OAH for assistance if they intend to amend their due process hearing request. OAH also maintains a list of free and low-cost attorneys who represent Parents on the OAH Special Education Division website.

ORDER

1. Student's complaint is insufficiently pled under section title 20 United States Code 1415(c)(2)(D).

2. Student shall be permitted to file an amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II).[2]

3. The amended complaint shall comply with the requirements of title 20 U.S.C. section 1415(b)(7)(A)(ii), and shall be filed not later than 21 days from the date of this order.

4. If Student fails to file a timely amended complaint, the original complaint will be dismissed.

5. In light of this order of insufficiency of the complaint, Coastal's Motion to Dismiss is denied as moot.

6. All dates previously set in this matter are vacated.

DATE: November 19, 2018

DocuSigned by:
Penelope S. Pahl
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PENELOPE S. PAHL
Administrative Law Judge
Office of Administrative Hearings

[2] The filing of an amended complaint will restart the applicable timelines for a due process hearing.