BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. PAJARO VALLEY UNIFIED SCHOOL DISTRICT.	OAH Case No. 2015050333 ORDER DENYING NOTICE OF INSUFFICIENCY

On April 27, 2015, Parent on Student's behalf (Student) filed a Due Process Hearing Request[1] (complaint) naming Pajaro Valley Unified School District (District). On May 11, 2015, 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.[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 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 alleges the following issues:

1. Did District deny Student a FAPE in its May 27, 2014 individualized education program offer by failing to:

a) Identify all of Student's unique needs,

b) Develop appropriate and measurable goals; and

c) Offer Student an appropriate placement and related services?

2. Did District deprive Parents a meaningful opportunity to participate in Student's May 27, 2014 IEP meeting by failing to provide Parents and Chartwell School with copies of Student's complete school records before the meeting?

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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).

Student's proposed resolutions include reimbursement for costs incurred by Parents for educational costs, and prospective placement at Chartwell School with related services, including round trip transportation.

District contends that Student's complaint is not factually specific as to areas of needs and goals. District refers back to an earlier decision by the Office of Administrative Hearings concerning this Student. District claims that the findings in that decision are dispositive of the issues alleged in this case. District's contentions do not support a finding that the complaint is insufficiently pled. The merits of the case are properly decided by the hearing officer after making findings of fact.

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

DATE: May 13, 2015

/S/

ADRIENNE L. KRIKORIAN
Administrative Law Judge
Office of Administrative Hearings