BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. SIMI VALLEY UNIFIED SCHOOL DISTRICT.	OAH Case No. 2015060593 ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

On June 1, 2015, Parent on behalf of Student, through legal counsel, filed a Due Process Hearing Request[1] with the Office of Administrative Hearings, naming the Simi Valley Unified School District. On June 15, 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

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[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 contains two issues for hearing which allege that District failed to provide him a free appropriate public education. In Issue One, Student alleges that, as a result of bullying from a classmate, District prevented Student from going to school for several weeks. Issue Two alleges that District failed to protect Student from ongoing threats of violence while at school which impacted his ability to access his educational program.

Although District correctly asserts that Student failed to specify the time frame in which these allegations occurred, Student does not allege an exception to the two-year statute of limitations. Therefore, the claims alleged are presumed to have occurred within two years from the date the complaint was submitted.[8] (20 U.S.C. § 1415(b)(6)(B); 34 C.F.R. § 300.507(a)(2) (2006); Ed. Code, § 56505, subd. (l).)

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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).

[8] If Student contends that the allegations go beyond two years from the date the complaint was submitted, Student will need to file an amended complaint that specifies the dates and why the statute of limitations should be tolled.

The facts alleged in Student's complaint are sufficient to put the District on notice of the issues forming the basis of the complaint. Student's complaint satisfactorily identifies the issues and adequate related facts about the problem to permit District to respond to the complaint and participate in a resolution session and mediation. Therefore, Student's complaint is sufficient.[9]

Student's proposed resolutions are that District provide compensatory education services through a non-public agency; teacher training; and develop an appropriate educational placement. 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 well-defined requests that meet the statutorily required standard of stating a resolution to the extent known and available to Student 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: June 16, 2015

/s/

PAUL H. KAMOROFF
Administrative Law Judge
Office of Administrative Hearings

[9] District is not estopped from moving to dismiss any claims which exceed OAH's jurisdiction.