BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

GREENFIELD UNION SCHOOL DISTRICT AND KERN COUNTY SUPERINTENDENT OF SCHOOLS.

OAH CASE NUMBER 2022080531

ORDER DISMISSING COMPLAINT FOR FAILURE TO FILE AN AMENDED COMPLAINT AFTER DETERMINATION OF INSUFFICIENCY

SEPTEMBER 8, 2022

On August 15, 2022, Parent, on behalf of Student, filed a Due Process Hearing Request with the Office of Administrative Hearings, often called OAH, naming Greenfield Union School District and Kern County Superintendent of Schools as respondents. On August 22, 2022, Greenfield and Kern County filed a joint Notice of Insufficiency as to the complaint. On August 23, 2022, the complaint was determined insufficient. The order determining the complaint insufficient was served on Parent, who is self-represented, at the email address she provided in her complaint on August 24, 2022.

The Order gave Student 14 days to file an amended complaint and offered mediator assistance to draft an amended complaint. No amended complaint was received by close of business September 7, 2022.

APPLICABLE LAW

The named parties have the right to challenge the complaint's sufficiency. (20 U.S.C. § 1415(b) & (c).) Within five days of receipt of a notification by a party that a due process hearing request is insufficient, the Administrative Law Judge must review the complaint and make a determination on the face of the complaint of whether the due process complaint meets the requirements of state and federal law. (20 U.S.C. § 1415(c)(2)(D); 34 C.R.F. 300.508(d)(2); Ed Code § 564502(d)(1).) A party may not have a due process hearing until the party files a request for due process hearing that meets the requirements of the Individuals with Disabilities Education Act. (20 U.S.C. § 1415 (b)(7)(A)(IV).)

FAILURE TO FILE AMENDED COMPLAINT

On August 26, 2022, Student filed two documents and a proof of service. These documents were mailed to the OAH office in Sacramento. The filing included a document entitled "Continuous Motion Requests Deny (G.F.U.S.D.) and (K.C.O.E.) Notice Insufficiency With Dismissal Due Process Pages (3) of (3)." The second document was a Prehearing Conference Statement.

The document did not acknowledge receipt of the August 23, 2022 order determining Student's complaint insufficient. The document was thoroughly reviewed. It appears, in part, as an opposition to the NOI. Regardless of intent, it is not deemed an amended complaint. It did not include a statement of issues and facts supporting

those issues. Further, it did not respond to or address the deficits raised in the NOI Order.

The Prehearing Conference Statement is also not an amended complaint. Neither document filed after the issuance of the Order determining the complaint insufficient included the information necessary to be considered an attempt to amend the complaint.

No amended complaint was filed within the time required by the Order determining the complaint insufficient. Therefore, the complaint is dismissed. Nothing in this order prevents Student from filing a new complaint that complies with the requirements of state and federal law.

A parent without 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 refile their due process hearing request. OAH also maintains a list on its website of free and low-cost attorneys who handle special education cases. Additionally, any party may request that OAH mediate a special education dispute without filing a request for due process. A form to request "mediation only" is available on the OAH Special Education Division website.

ORDER

Student's due process hearing request is dismissed for failure

to file an amended complaint that complies with 20 U.S.C. § 1415(b)(7).

IT IS SO ORDERED.

Penelope S. Pahl

Penelope S. Pahl

Administrative Law Judge

Office of Administrative Hearings