BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

FORESTVILLE UNION SCHOOL DISTRICT AND WEST SONOMA COUNTY CONSORTIUM.

OAH CASE NUMBER 2024090512

ORDER DETERMINING DUE PROCESS COMPLAINT INSUFFICIENT AS TO WEST SONOMA COUNTY CONSORTIUM

DECEMBER 23, 2024

On December 3, 2024, Parents on behalf of Student filed with the Office of Administrative Hearings a motion to amend the due process hearing request, called a complaint, and an amended complaint, naming Forestville Union School District and West Sonoma County Consortium. The Office of Administrative Hearings is called OAH.

On December 5, 2024, OAH granted Student's motion to amend the complaint, and OAH deemed the amended complaint filed on that date. OAH served the

December 5, 2024 Order Granting Motion to Amend Complaint on Forestville Union on December 6, 2024, but did not serve West Sonoma County.

On December 23, 2024, West Sonoma County filed a Motion to Dismiss and Notice of Insufficiency as to the complaint. West Sonoma County moved to be dismissed as a party and challenged the sufficiency of the complaint against it. West Sonoma County filed a declaration by Attorney David Mishook, counsel for West Sonoma County, in support of the motion and notice. Mishook declared that West Sonoma County did not receive the December 5, 2024 Order Granting Motion to Amend Complaint until December 12, 2024.

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).

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, called a FAPE;
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.)

West Sonoma County filed its Notice of Insufficiency within 15 days of receiving OAH's order granting Student's motion to amend the complaint, which added West Sonoma County as a party. Therefore, the Notice of Insufficiency is timely.

Student's complaint is insufficiently pled against West Sonoma County. The complaint claims Forestville Union referred Student to West Sonoma County for placement and services. The complaint fails to allege sufficient facts of how West Sonoma County's conduct or decisions, apart from those of Forestville Union, denied Student a FAPE.

The complaint fails to provide West Sonoma County with an awareness and understanding of the issues forming the basis of the complaint against it, to allow West Sonoma County to properly prepare for the hearing and to participate in a resolution session. Accordingly, the complaint is insufficient against West Sonoma County.

ORDER

1. Student's complaint is insufficiently pled under title 20 United States Code section 1415(c)(2)(D) against West Sonoma County.
2. Student shall be permitted to file an amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II).
3. The amended complaint shall comply with the requirements of title 20 United States Code section 1415(b)(7)(A)(ii), and shall be filed no later than 14 days from the date of this Order. The filing of an amended complaint will restart the applicable timelines for a due process hearing.
4. If Student fails to file a timely amended complaint, West Sonoma County will be dismissed as a party, and the hearing shall proceed only against Forestville Union.
5. West Sonoma County's motion to dismiss is denied as moot.

Rommel P. Cruz

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Administrative Law Judge

Office of Administrative Hearings