BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

MAIN STREET MIDDLE SCHOOL.

OAH CASE NUMBER 2020030294

ORDER FINDING DUE PROCESS COMPLAINT INSUFFICIENT

MARCH 17, 2020

On March 6, 2020, Parent on behalf of Student filed a due process hearing request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Main Street Middle School. On March 17, 2020, Soledad Unified School District timely filed a notice of insufficiency as to the complaint.

APPLICABLE LAW

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; (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.) 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.)

Special education due process hearing procedures extends to the parent or guardian, to the student in certain circumstances, and to the public agency involved in any decisions regarding a pupil. (Ed. Code, § 56501, subd. (a).) A "public agency" is defined as a school district, county office of education, special education local plan

area, or any other public agency providing special education or related services to individuals with exceptional needs. (Ed. Code, §§ 56500 and 56028.5.) The Code of Federal Regulations provides that the term "public agency" encompasses state educational agencies such as California Department of Education, as well as local educational agencies such as a school district, and any other political subdivisions of the State that are responsible for providing education to children with disabilities. (34 C.F.R. § 300.33 (2006).)

Student's complaint alleges a single claim against Student's middle school, that a school psychologist diagnosed Student with learning disabilities and the school wants to place Student in a "special children's class." This claim is insufficiently pled.

The complaint improperly identified Student's middle school as the responsible public agency, as a school is not a local educational agency or political subdivision of the State. Soledad Unified School District has responded to the complaint, identifying itself as the proper responsible public agency for Student's IDEA claims.

However, the complaint also fails to state facts about the problem to give Soledad sufficient information to prepare for the hearing or participate in resolution sessions and mediation. The complaint does not reference an assessment for special education or related services, or an individualized education program, called an IEP. It is unclear if Student is alleging that he has not been made eligible for special education, but should be, or whether he is eligible and Parent disagrees with an IEP offer of placement. If Student is disagreeing with an IEP, he does not identify that IEP by date, making the complaint vague as to time. Therefore, Student has failed to state sufficient facts supporting this claim, and the claim is insufficient.

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 amend their due process hearing request.

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).
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 14 days from the date of this order.
4. If Student fails to file a timely amended complaint, the complaint will be dismissed.
5. All dates previously set in this matter are vacated.

DocuSigned by:
Alexa Hohensee
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Alexa Hohensee

Administrative Law Judge

Office of Administrative Hearings