BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

MORGAN HILL UNIFIED SCHOOL DISTRICT AND CAMPBELL UNION SCHOOL DISTRICT.

OAH CASE NUMBER 2023100744

ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

NOVEMBER 9, 2023

On October 20, 2023, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Morgan Hill Unified School District and Campbell Union School District. On November 3, 2023, Campbell Union filed a Notice of Insufficiency with respect to Issues 1, 7, and 9 in complaint. By Order dated November 8, 2023, following an expedited prehearing conference, the notice of insufficiency was denied as to Issue 1, because Issue 1 references expedited matters as to which the notice of insufficiency process is

unavailable. The notice of insufficiency is now denied also as to Issues 7 and 9, for reasons stated below.

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; *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.)

DISCUSSION

The facts alleged in Student's complaint are sufficient. The complaint identifies the issues and adequate facts about the problem to permit Campbell Union to respond and participate in a resolution session and mediation and prepare for hearing.

Issue 7 alleges that Campbell Union denied Student free appropriate public education, or FAPE, during the 2022-2023 and 2023-2024 school years by predetermining placement, disregarding her unique and individual needs in a continuum of service placements, and failing to provide parent with prior written notices. Issue 9 alleged that Campbell Union failed to offer Student a FAPE when it failed to provide appropriate programs, services and interventions to address bullying at school.

Campbell Union argues that Issues 7 and 9 are vague, confusing, and contradictory, as it is clear from the Complaint that Student does not have an IEP. Therefore, it is unclear why the Complaint raises issues related to predetermination and bullying for a student without IDEA protections.

Although OAH will entertain motions concerning allegations that are facially outside of OAH jurisdiction such as civil rights claims, section 504 claims, enforcement of settlement agreements, or incorrect parties, special education law does not provide for a summary judgment procedure. Here, the notice of insufficiency as to Issues 7 and 9 is

not limited to matters that are facially outside of OAH jurisdiction, but instead seeks a ruling on the merits.

Therefore, Student's statement of Issues 7 and 9 is 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.

IT IS SO ORDERED.

June Lehrman

June Lehrman
Administrative Law Judge
Office of Administrative Hearings