BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

STUDENT,

v.

CALIFORNIA SCHOOL OF THE ARTS - SAN GABRIEL VALLEY.

OAH CASE NUMBER 2023010440

ORDER FINDING FIRST AMENDED DUE PROCESS COMPLAINT INSUFFICIENT; NOTICE OF NO ACTION ON MOTION TO CONTINUE

FEBRUARY 23, 2023

On January 18, 2023, Student filed a due process hearing request, called a complaint, with the Office of Administrative Hearings, referred to as OAH. The complaint named California School of the Arts – San Gabriel Valley as the respondent. The respondent will be referred to as School of the Arts. On January 31, 2023, School of the Arts filed a notice of insufficiency as to the complaint. On February 1, 2023, OAH found the complaint's three claims insufficient and granted Student leave to amend.

On February 13, 2023, Student filed an amended complaint, which will be referred to as the first amended complaint. On February 22, 2023, School of the Arts filed a

timely notice of insufficiency as to the first amended complaint, or alternatively for a continuance of the hearing date.

This Order finds the first amended complaint insufficiently pleaded for the reasons stated below. This Order renders the motion for continuance moot, and no action will be taken on that motion.

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, and 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.)

Student's first amended complaint alleges three insufficiently pled claims. Notably, Student added no facts regarding his educational program after the Order finding the complaint insufficient, or regarding how the actions or inaction of School of the Arts impacted his right to a free appropriate public education, called a FAPE. Rather, Student alleges in the jurisdictional section that he "believes the details of those disagreements do not belong before OAH at this time, and maybe never." Accordingly, Student's vague and elusive allegations make it impossible to discern what issues Student seeks to raise at a due process hearing before OAH.

Issue 1 alleges Student and Parent asked in 2022 for School of the Arts to make unspecified changes in Student's records, but the changes were not made. In the background facts, Student alleges that he and Parent questioned School of the Arts about how his grades multiple times, but had limited opportunities to be heard or to receive a response. Student alleges a right to an administrative hearing conducted by School of the Arts regarding the unspecified changes to his records.

A party has the right to present a complaint before OAH with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a FAPE. (20 U.S.C. § 1415(b)(6); Ed. Code, § 56501, subd. (a).) However, as to Issue 1, Student's first amended complaint does not describe a problem regarding Student's identification, evaluation, or educational placement, or providing the Student a FAPE. Student does not allege that he is a child with a disability entitled to special education and related services. The first amended complaint is devoid of facts regarding a problem with his placement, special education, or related services. Further, as Student alleges at Issue 1, he has a right to a hearing before School of the Arts on his

unidentified claims, but it is difficult to discern what problem Student contends must be heard in a due process hearing before OAH.

At Issue 2, Student alleges School of the Arts predetermined Student would not be offered accommodations or services for his long-haul COVID-19 diagnosis from December 2020 through the filing of the complaint. He alleges neurofeedback treatment by medical professionals. The first amended complaint lacks facts regarding what accommodations or services Student contends School of the Arts should have offered from December 2020. Student alleges neurofeedback treatments "improved his ability to make progress," but does not allege any facts about the impact of a failure to offer neurofeedback treatments, or other unspecified accommodations and services, on his ability to access his education or to receive a FAPE.

At Issue 3, Student alleges School of the Arts should have assessed his vision on November 15, 2021. However, no facts are given regarding why School of the Arts should have assessed his vision at that time. Student does not allege anywhere in the first amended complaint that he is currently receiving special education and related services, or would have been eligible for special education under any specified eligibility category had he been assessed. He does not allege if, or how, his vision impacted his access to an education or his right to a FAPE.

The first amended complaint fails to provide School of the Arts with the required problem description and the facts relating to the problem. All three claims are vague and confusing. Accordingly, the first amended complaint is insufficiently pleaded.

ORDER

1. Student's first amended complaint is insufficiently pled under section title 20 United States Code section 1415(c)(2)(D).

2. Student will be permitted to file an amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II).
3. The amended complaint must comply with the requirements of title 20 United States Code section 1415(b)(7)(A)(ii), and must 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.

IT IS SO ORDERED.

Alexa Hohensee

Alexa Hohensee
Administrative Law Judge
Office of Administrative Hearings