BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

SAN DIEGUITO UNION HIGH SCHOOL DISTRICT.

OAH CASE NUMBER 2023070962

ORDER DETERMINING THE DUE PROCESS COMPLAINT IS INSUFFICIENT IN PART

AUGUST 16, 2023

On July 28, 2023, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming San Dieguito Union High School District as respondent. On August 14, 2023, San Dieguito 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; *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.)

The statute of limitations in California is two years, consistent with federal law. (Ed. Code, § 56505, subd. (l); see also 20 U.S.C. § 1415(f)(3)(C).) There are limited exceptions to the general statute of limitations. For example, when parent was prevented from filing a request for due process due to specific misrepresentations by the local education agency that it had resolved the problem forming the basis of the complaint, or that the local education agency withheld information from the parent that it was required to provide. (Ed. Code § 56505, subd. (l); 20 U.S.C. section 1415(f)(3)(D).) Additionally, as permitted under federal law, California has adopted its own discovery rule. California's law states that a claim accrues for purposes of the statute of limitations when a parent learns of the underlying facts that form a basis for the action. (Ed. Code, § 56505, subd. (l).)

DISCUSSION

San Dieguito contends that Student's complaint fails to provide facts to meet the sufficiency requirements. San Dieguito asserts that the complaint alleges violations outside of the statute of limitations and the complaint fails to allege facts to show it was the responsible LEA responsible for providing Student with a free appropriate public education, called FAPE, during the time period at issue. San Dieguito argues the complaint is insufficient because it does not allege that Student's Parents resided in the district, or that it was the LEA responsible for FAPE as of the start of the 2019-2020 school year, nor any time since. San Dieguito contends all facts alleged that could support such allegations are beyond the statute of limitations. In support of its motion, San Dieguito submitted a declaration under the penalty of perjury, stating that an internet search of the California address for Parent returned a result showing it was the address of The UPS store in a shopping center, not a residence. San Dieguito requests for the complaint to be deemed insufficient based on stating claims outside of the

statute of limitations and because it does not allege facts to show San Dieguito was the responsible LEA during the time period alleged, the start of the 2020-2021 school year, to date.

Student's complaint asserts she became eligible for special education in a different school district, not San Dieguito, during the 2018-2019 school year. The complaint claims that Student naturally transitioned into the San Dieguito Union High School District at the beginning of the 2019-2020 school year, when she entered the seventh grade. Student's complaint alleges four claims that arose during the 2020-2021, through the 2022-2023 school years, and asserts the San Dieguito denied her a FAPE during that timeframe. Student's complaint describes the problem relating to the provision of a FAPE and includes facts about the problem. Student's complaint is sufficiently pled as it provides enough information to provide San Dieguito an awareness and understanding of the issues forming the basis of the complaint.

In issues one and two, Student alleges denials of FAPE during the 2020-2021 school year, a time period prior two the two-year statute of limitations. Student provides no facts, assertions or arguments regarding the basis upon which the statute of limitations should be extended. Accordingly, Student's issues one and two are insufficiently pled.

This Order does not prevent San Dieguito from filing other motions or asserting as a defense at hearing that Student failed to establish it owed Student a FAPE.

ORDER

1. Student's issues one and two are 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. The filing of an amended complaint will restart the applicable timeless for a due process hearing.
4. If Student fails to file a timeless amended complaint, the hearing shall proceed only on issues three and four in Student's complaint.

IT IS SO ORDERED.

Marlo Nisperos

Marlo Nisperos
Administrative Law Judge
Office of Administrative Hearings