BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

MILL VALLEY SCHOOL DISTRICT.

OAH CASE NUMBER 2025040955

ORDER DETERMINING DUE PROCESS COMPLAINT PARTIALLY SUFFICIENT

APRIL 29, 2025

On April 21, 2025, Parents on behalf of Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, naming Mill Valley School District. The Office of Administrative Hearings is called OAH.

Student's complaint included the OAH form to request a due process hearing, and a 32-page Statement of Facts. The Statement of Facts also includes a Statement of Issues. Further, Student filed seven exhibits, identified as Exhibits A, B, C, D, E, F, and G, as "supporting documentation" to the complaint. Exhibit A consists of correspondences between Parents and Mill Valley Unified. Exhibit B consists of an individualized education program, called IEP, documents, correspondences, an assessment plan, and a

prior written notice. Exhibit C consists of correspondences and a summary of IEP goals and progress. Exhibit D consists of charts of attendance and services minutes, as well as additional allegations involving assessments and IEP team meetings. Exhibit E consists of legal authority and additional allegations against Mill Valley Unified. Exhibit F appears to be a summary of an assessment report. Exhibit G consists of a description of the Sonday System will additional allegations. Student served Mill Valley Unified with a copy of the complaint, along with the seven exhibits on April 21, 2025.

On April 25, 2025, Mill Valley Unified filed a Notice of Insufficiency as to the complaint. Mill Valley Unified included a declaration by its attorney, along with a copy of Student's complaint and Exhibits A through G. The Notice of Insufficiency did not include a copy of the 32-page Statement of Facts, nor did the Notice of Insufficiency reference the Statement of Facts. The pleadings are unclear as to whether Student served Mill Valley Unified with a copy of the 32-page Statement of Facts. This Order makes no determination of whether Student properly served Mill Valley Unified with a complete copy of the complaint.

The purpose of the Individuals with Disabilities Education Act, called IDEA, (20 U.S.C. § 1400 et. seq.) is to ensure that all children with disabilities have available to them a free appropriate public education, called FAPE, and to protect the rights of those children and their parents. (20 U.S.C. § 1400(d)(1)(A), (B), and (C); see also Ed. Code, § 56000.) A party has the right to present a complaint with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a FAPE to the child. (20 U.S.C. § 1415(b)(6); Ed. Code, § 56501, subd. (a) [party has a right to present a complaint regarding matters involving proposal or refusal to initiate or change the identification, assessment, or educational placement of a child; the provision of a FAPE to a child; the refusal of a parent or guardian to consent to an

assessment of a child; or a disagreement between a parent or guardian and the public education agency as to the availability of a program appropriate for a child, including the question of financial responsibility].) OAH's jurisdiction is limited to these matters. (*Wyner v. Manhattan Beach Unified School. Dist*. (9th Cir. 2000) 223 F.3d 1026, 1028-1029.) OAH does not have jurisdiction to decide claims based on Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.), Section 1983 of Title 42 United States Code, the Americans with Disabilities Act (42 U.S.C. §§ 1201, et seq.), or the Unruh Civil Rights Act (Civ. Code, § 51).

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 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.)

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).) Education Code section 56505, subdivision (l) provides that a complaint arising under subdivision (a) of Section 56501 shall be filed within two years from the date the party initiating the request knew or had reason to know of the facts underlying the basis for the request. In accordance with Section 1415(f)(3)(D) of title 20 of the United States Code, the time period specified in this subdivision does not apply to a parent if the parent was prevented from requesting the due process hearing due to either of the following:

1. specific misrepresentation by the local educational agency that it had solved the problem forming the basis of the due process hearing request; or

2. the withholding of information by the local educational agency from the parent that was required under this part to be provided to the parent.

Student describes problems in various sections of the complaint, including page 10 of 12 of the OAH due process hearing request form, and throughout the Statement of Facts and exhibits. Some of the problems are sufficiently plead in the complaint, while others are not.

The complaint's first problem, referred to as Issue 1, claims Mill Valley Unified failed to convene an IEP team meeting despite Student's lack of progress towards goals. However, the complaint describes numerous IEP team meetings that were scheduled, cancelled, and held, but does not identify the period Mill Valley Unified allegedly failed to convene an IEP team meeting to address Student's lack of progress towards his goals. The complaint fails to provide enough information for Mill Valley Unified to understand the problem forming the basis of Issue 1. Accordingly, Issue 1 is insufficiently plead.

The complaint's second problem, referred to as Issue 2, claims the two-year statute of limitations should not bar Student's claims because Mill Valley Unified misrepresented the provision of IEP services over multiple school years. Student claims Parents did not learn of Mill Valley Unified's failure to implement services until December 8, 2023. The complaint describes problems about Mill Valley Unified alleged failure to provide services to address Student's dyslexia starting from the 2021-2022 school year. Liberally read, the complaint provides enough information about Mill Valley Unified's alleged misrepresentation in delivering Student's IEP services since the 2021-2022 school year to provide Mill Valley Unified with an awareness and understanding about the exception to the two-year statute of limitations Student seeks to establish at hearing. Accordingly, Issue 2 is sufficient.

The third problem described in the complaint, referred to as Issue 3, claims Student was denied a FAPE by failing to account for the services delivered to him to enable Parents to monitor compliance of the IEP. Liberally read along with Issue 2, the complaint sufficiently describes Mill Valley Unified's alleged failure to ensure Student's services were delivered and documented to enable Parents to monitor compliance of Student's IEP. The complaint describes enough information to provide Mill Valley Unified with an awareness and understanding of the problem in Issue 3. Accordingly, Issue 3 is sufficient.

The statement of issues listed in the complaints Statement of Facts describes additional claims, referred to as Issue 4, sub-issues a through q, that Mill Valley Unified failed to:

a. appropriately assess Student in dyslexia and spelling;
b. produce curriculum-based assessments through the Sonday System;
c. provide Parents with Student's work samples to demonstrate mastery of skills;
d. track and report Student's progress in spelling;
e. provide Student's classroom attendance and instruction logs for the delivery of 212 minutes per week of instruction;
f. accommodate Student's medically excused absences;
g. exclude Student's absences in the delivery of services;
h. remediate Student's specific learning disability of mixed-type dyslexia;
i. allow Student access to a FAPE;
j. acknowledge procedural violations;
k. accurately report the assessment Student's goal progress;

l. provide Student compensatory instruction for missed instruction towards IEP goals;

m. accommodate Student when school was closed on October 25, and 26, 2021, resulting in lost instruction;

n. provide compensatory education without legal review as communicated by the Vice Principal of Student Services in November 2024;

o. demonstrate non-retaliation actions in the formal assurance from Mill Vally Middle School that no future retaliatory actions would be taken against Student and Parents for advocating for their educational rights;

p. produce communication records proving Parent consented to Mill Vally Middle School's spelling assessment; and

q. obtain Mill Valley Middle School and Mill Valley School District's legal review of the accuracy of the statement made by the Vice Principal of Student Services that Student was not denied a FAPE.

The complaint fails to provide a sufficient description of the problems involving Issues 4f, 4g, 4i, 4j, 4m, 4n, 4o, and 4q, to provide Mill Valley Unified with an awareness of problems in those claims. The complaint fails to explain how those claims relate to the identification, evaluation, or educational placement of Student, or the provision of a FAPE to Student, for which OAH has jurisdiction to address.

In Issues 4f and 4g, the complaint fails to sufficiently describe how Mill Valley Unified failed to accommodate his medically excused absences or clearly explain what is meant by excluding his absences in the delivery of services. Issues 4i and 4j are vague and lacks specificity to provide Mill Valley Unified with an awareness of the problem in those claims.

Further, Issues 4m, 4n, and 4q are not sufficiently explained in the complaint as to how Mill Valley Unified failed to accommodate Student when school was closed in October 2021, or how the alleged failure to review the legality of the vice principal's communications denied Student a FAPE. Furthermore, Issue 4o is unclear regarding any alleged retaliation by Mill Valley Unified. Accordingly, Issues 4f, 4g, 4i, 4j, 4m, 4n, 4o, and 4q are insufficiently pled.

A liberal reading of the complaint finds Issues 4a, 4b, 4c, 4d, 4e, 4h, 4k, 4l, and 4p are sufficiently explained in the complaint to provide Mill Valley Unified with an awareness and understanding of the problems involving those claims. Accordingly, Issues 4a, 4b, 4c, 4d, 4e, 4h, 4k, 4l, and 4p are sufficiently plead.

Student also raises a claim that Mill Valley Unified engaged in a systematic violation by failing to deliver evidenced-based instruction for students with dyslexia, referred to as Issue 5. OAH's jurisdiction is limited to claims involving the student, the student's parent or guardian, and the public agency involved in the education of the student, with respect to the identification, evaluation, or educational placement of the student, or the provision of a FAPE to that student. OAH's jurisdiction does not extend to claims that seek relief for structural and systemic district-wide violations. As a result, the complaint is unclear and vague as to how Issue 5 involves Student and is distinct from Issue 4h as described in this Order. Accordingly, Issue 5 is insufficiently plead.

To the extent Student sought to raise additional claims described in the exhibits, the complaint is unclear whether those allegations were in addition to the issues described in the body of the complaint, including the Statement of Facts. For example, Student alleges in Exhibit E that Mill Valley Unified offered goals that were inappropriate to address his dyslexia related needs, which may be addressed in Issue 4h involving Mill Valley Unified's alleged failure to remediate his specific learning disability of mixed-type

dyslexia. Therefore, any additional issues described in the exhibits, beyond Issues 1 through 5 as described in this Order, are unclear and confusing, and therefore, insufficiently plead.

MEDIATOR ASSISTANCE FOR NON-REPRESENTED PARENTS: 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. Issues 2, 3, 4a, 4b, 4c, 4d, 4e, 4h, 4k, 4l, and 4p of Student's complaint, as described in this Order, are sufficient under title 20 United States Code section 1415(b)(7)(A)(ii).
2. Issues 1, 4f, 4g, 4i, 4j, 4m, 4n, 4o, 4q, and 5 in Student's complaint, as described in this Order, are insufficiently plead under title 20 United States Code section 1415(c)(2)(D).
3. Student shall be permitted to file an amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II).
4. If the issues deemed sufficient as described in this Order do not accurately reflect the issues Student intended to raise in his complaint, Student shall file an amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II). Student shall list all issues to be decided at hearing within the body of the complaint, and not only in an exhibit.
5. The amended complaint shall comply with the requirements of title 20 United States Code 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 timelines for a due process hearing.

6. If Student fails to file a timely amended complaint, the hearing shall proceed only on Issues 2, 3, 4a, 4b, 4c, 4d, 4e, 4h, 4k, 4l, and 4p of Student's complaint, as described in this Order.

Rommel P. Cruz

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Administrative Law Judge

Office of Administrative Hearings