BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

SAN DIEGO WORKFORCE INNOVATION HIGH SCHOOL.

OAH CASE NUMBER 2023080109

ORDER DETERMINING DUE PROCESS COMPLAINT SUFFICIENT

AUGUST 23, 2023

On August 2, 2023, Student filed a due process hearing request, called a complaint, with the Office of Administrative Hearings naming San Diego Innovation Workforce High School. Student transposed the name of the charter school in the caption, but not in the body of the document. The correct name is San Diego Workforce Innovation High School. On August 16, 2023, San Diego Workforce filed a notice of insufficiency as to the complaint.

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 facts alleged in Student's complaint are sufficient. Student's complaint identifies the issues and adequate facts about the problem to permit San Diego Workforce to respond and participate in a resolution session and mediation. Student identifies four issues in the complaint. San Diego Workforce alleges the entire complaint should be deemed insufficient because the complaint fails to identify Student's current school of attendance, allege facts related to assessing Student during the statutory period, and identifies an incorrect individualized education program, or IEP. Student's complaint has numerous typographical errors, however, when read as a whole, Student's issues are understandable and there are facts to support the issues.

Student identifies his current placement as a residential treatment center and alleges the issues arose while he was attending San Diego Workforce. Student lists the date he enrolled in San Diego Workforce and when he enrolled in a residential treatment center and alleges San Diego Workforce should have placed him at the residential treatment center. San Diego Workforce's argument that Student's complaint fails to list his current school of attendance is not persuasive.

Student's Issue One alleges San Diego Workforce denied Student a free appropriate public education, referred to as FAPE, by failing to conduct a triennial psychoeducational assessment within the statute of limitations. Student alleges when his last triennial assessment was conducted, when San Diego Workforce completed a triennial assessment team planning worksheet, and that San Diego Workforce should have completed a reassessment during the statutory period. Student alleges San Diego Workforce's information about Student's current level of functioning was outdated. These allegations provide San Diego Workforce with enough information to understand Student's issue. San Diego Workforce's assertion that Issue One is a ongoing violation

that special education law does not recognize is a defense and is not appropriate for a notice of insufficiency.

Student's Issue Two alleges San Diego Workforce denied him a FAPE pursuant to the October 26, 2022, IEP. San Diego Workforce alleges there was not an October 26, 2022, IEP, and Student refers to district instead of charter or San Diego Workforce, therefore it is confused as to the issue. While Student's Issue Two lists the IEP date as October 26, 2022, the complaint refers to an IEP of December 1, 2022. Student provides numerous facts relating to the December 1, 2022, IEP, including that it was amended on February 7, 2023. Student's Issue Three alleges the February 7, 2023, IEP, also denied him a FAPE. Finally, Student's Issue Four alleges the December 1, 2022, IEP, that was amended on February 7, 2023, and March 7, 2023, denied Student a FAPE by failing to offer a residential treatment center placement. When the complaint is read with all the issues in mind, it is clear the IEP date listed in Issue Two is a typographical error. Therefore, Student's statement of the four claims is sufficient.

Student's proposed resolutions request an independent educational evaluation, compensatory education, reimbursement, and a residential treatment center placement. Student's proposed resolutions are well-defined. Student has met the statutorily required standard regarding proposed resolutions.

ORDER

1. The complaint is sufficient under title 20 United States Code section 1415(b)(7)(A)(ii).
2. All prehearing conference and due process hearing dates in this matter are confirmed.

Linda Dowd

Linda Dowd

Administrative Law Judge

Office of Administrative Hearings