BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

MAGNOLIA SCIENCE ACADEMY SANTA ANA AND EL DORADO COUNTY CHARTER SPECIAL EDUCATION LOCAL PLAN AREA.

OAH CASE NUMBER 2022050270

ORDER DETERMINING DUE PROCESS COMPLAINT INSUFFICIENT

MAY 24, 2022

On May 5, 2022, Student filed a Request for Due Process Hearing, called a complaint, with the Office of Administrative Hearings, called OAH, naming Magnolia Science Academy Santa Ana, Los Angeles Unified School District, Santa Ana Unified School District, and El Dorado County Charter Special Education Local Plan Area. On May 17, 2022, Student dismissed the complaint as to Los Angeles Unified School District and Santa Ana Unified School District. On May 19, 2022, Magnolia Science Academy filed a Notice of Insufficiency as to the complaint.

The named parties have the right to challenge a due process 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 due process complaint is sufficient if it: (1) describes the problem relating to the proposed initiation or change regarding the Student's identification, evaluation, or educational placement, or the provision of 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.)

Student's complaint is insufficient. The complaint contains approximately 16 pages of facts and general allegations but does not clearly identify which named respondents the allegations are made against. The complaint refers to "the District," "the Charter," and to "MSASA" interchangeably. For example, the complaint alleges "the District has substantively denied [Student] a FAPE for at least the last two school years." The complaint also alleges "the District should have funded [a] neuropsychological IEE, or funded (sic) to defend its offer of only a psychoeducational assessment." However, the complaint does not indicate whether "the District" refers to Los Angeles, Santa Ana, or more importantly, Magnolia Science Academy.

Further, the complaint does not clearly describe the nature of the problems or the facts related to those problems as they relate to Magnolia Science Academy. The only allegation that clearly relates to Magnolia Science Academy is an allegation that Magnolia gave Parent information that did not align with the Individuals with Disabilities Education Act's procedural safeguard requirements. But even the facts supporting this allegation refer to "the District's information." Without a clear description of the alleged problems and the facts related to those problems, Magnolia Science Academy does not have sufficient information to form an awareness or understanding of the issues or to know how to prepare for a resolution session or a due process hearing.

ORDER

1. Student's complaint is insufficiently pled under title 20 United States Code section 1415(c)(2)(D).
2. Student may 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 State 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 currently scheduled dates in this case are vacated.

Tara Doss

Tara Doss

Administrative Law Judge

Office of Administrative Hearings