BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

ALPINE UNION SCHOOL DISTRICT.

OAH CASE NUMBER 2023060498

ORDER DETERMINING COMPLAINT INSUFFICIENT IN PART

JUNE 30, 2023

On June 14, 2023, Student filed a due process hearing request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Alpine Union School District, called Alpine Union. On June 29, 2023, Alpine Union filed a notice of insufficiency as to the complaint.

ALPINE UNION FILED A TIMELY NOTICE OF INSUFFICIENCY

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). The complaint is deemed sufficient unless a party notifies OAH and the other party in writing within 15 days of receiving the complaint that the party believes

the complaint has not met the notice requirements. (20 U.S.C. § 1415(c)(2)(C); Ed. Code, § 56502, subd. (d)(1).)

Here, Student filed a complaint on June 14, 2023, and Alpine Union filed a notice of insufficiency on June 29, 2023, 15 days later. Thus, Alpine Union's notice of insufficiency was timely filed.

STUDENT'S COMPLAINT IS INSUFFICIENT IN PART

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.) 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 consists of three issues separated by school year, the 2020-2021, 2021-2022, and 2022-2023 school years, including extended school years. Within

each issue, or school year, were numerous sub issues. Alpine Union alleged that Student's complaint was insufficient because:

- Student failed to plead any facts regarding extended school year for each issue;
- Student's complaint is vague, confusing, and inconsistent; and
- Student failed to properly plead the statute of limitations issue.

The pleading requirements should be liberally construed considering 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.)

STUDENT'S EXTENDED SCHOOL YEAR ALLEGATIONS ARE INSUFFICIENT

Student issues one, two, and three alleged that all violations are continued through the extended school year. Student, however, failed to set forth any facts in the complaint regarding if Student was offered or should have been offered extended school year for the 2020-2021, 2021-2022, and 2022-2023 school years and under what circumstances. Because of this, the complaint failed to state sufficient facts that give Alpine Union an awareness and understanding of extended school year such that can be used to prepare for a resolution session, mediation, and hearing. Thus, the complaint is insufficiently pled as to extended school year in issues one, two, and three.

STUDENT'S STATUTE OF LIMITATIONS CLAIM IS INSUFFICIENT

Alpine Union argued that Student failed to set forth any facts related to any misrepresentations or withholding of any information, or when Parents knew or should

of known of the actions forming the basis of the complaint, making the statute of limitations issue improperly pled and insufficient.

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).) However, title 20 United States Code section 1415(f)(3)(D) and Education Code section 56505, subdivision (l), establish exceptions to the statute of limitations in cases in which the parent was prevented from filing a request for due process due to specific misrepresentations by the local educational agency that it had resolved the problem forming the basis of the complaint, or the local educational agency's withholding of information from the parent that was required to be provided to the parent.

In *Avila v. Spokane School District 81*, (9th Cir. 2017) 852 F.3d 936 (*Avila*), the Ninth Circuit held that the two-year statute of limitations for filing a request for due process pursuant to the Individuals with Disabilities Education Act begins when a parent "knew or should have known about the alleged action that forms the basis of the compliant." (*Avila*, at p. 944.) At that point, parents have two years to file their request for due process. (20 U.S.C. § 1415(f)(3)(C) and 1415(b)(6)(B).)

Here, Student's issue one alleges violation during the 2020-2021 school year beyond the statute of limitations in this matter. Student failed, however, to set forth any facts regarding the discovery rule or exceptions to the statute of limitations in the complaint. Because of this, Student's complaint failed to state sufficient facts that give Alpine Union an awareness and understanding of the statute of limitations such that can be used to prepare for a resolution session, mediation, and hearing. Accordingly, Student's complaint is insufficiently pled as to the statute of limitations claim.

ORDER

1. The extended school year claims in Student's issue one, two, and three in Student's complaint are insufficiently pled under title 20 United States Code section 1415(c)(2)(D).
2. The statute of limitations claim in Student's issue one in Student's complaint is insufficiently pled under title 20 United States Code section 1415(c)(2)(D).
3. Student will be permitted to file an amended complaint under title 20 of the United States Code, section 1415(c)(2)(E)(i)(II).
4. The amended complaint must comply with the requirements of title 20 U.S.C. section 1415(b)(7)(A)(ii) and must 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.
5. If Student fails to file a timely amended complaint, the hearing will proceed on all issues except extended school year and the statute of limitations.

IT IS SO ORDERED.

Cynthia Fritz

Cynthia Fritz
Administrative Law Judge
Office of Administrative Hearings