BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

DUBLIN UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2024070605

ORDER DETERMINING DUE PROCESS COMPLAINT INSUFFICIENT

JULY 29, 2024

On July 17, 2024, Student filed a due process hearing request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Dublin Unified School District. On July 26, 2024, Dublin 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:

- 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, called a FAPE;
- includes facts about the problem; and
- 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 alleges three insufficiently pled claims. The complaint states various facts within three boxes on OAH's form complaint purporting to identify three issues. The facts alleged within each section may be sufficient to support one or more issues, but Student failed to identify a single issue he intends to bring to hearing.

A complaint that fails to delineate any issues does not provide an awareness and understanding of the issues forming the basis of the complaint. For example, Student's issue one states facts regarding a request for home hospital instruction, implementation of home hospital instruction, a change in home hospital instruction, an offer of placement and services in the March 13, 2023 annual individualized education program, or IEP, a May 18, 2023 IEP amendment, requests for a one-to-one aide assessment, and needs regarding safety, focus, elopement, mouthing objects, inattention, prompting, and social facilitation.

The complaint fails to state whether Student contends he was denied a FAPE regarding the home hospital placement, whether Dublin failed to materially implement the home hospital placement, whether Dublin failed to assess or appropriately assess in any identified area, and whether Dublin failed to offer a placement or services or goals or accommodations to address the various needs listed in the complaint. Only Student knows which facts are alleged for background information and which support an issue he seeks to bring to hearing.

Student's complaint, here, does not promote fairness by providing Dublin with sufficient information to know how to prepare for hearing or how to participate in resolution session or mediation.

With respect to issues identified as one, two, and three, each issue is insufficient as Student failed to identify a single issue.

1. Student's complaint is 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.
4. If Student fails to file a timely amended complaint, the complaint will be dismissed.
5. All dates previously set in this matter are vacated.

IT IS SO ORDERED.

Cole Dalton

Cole Dalton
Administrative Law Judge
Office of Administrative Hearings