BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

TWIN RIVERS UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2024070639

ORDER DETERMINING DUE PROCESS COMPLAINT INSUFFICIENT

JULY 30, 2024

On July 18, 2024, Parent, on behalf of Student, filed a Due Process Hearing Request, also called a complaint, with the Office of Administrative Hearings, called OAH, naming Twin Rivers Unified School District as respondent. On January 29, 2024, Twin Rivers filed a Notice of Insufficiency as to the complaint.

APPLICABLE LAW

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 Individuals with Disabilities Education Act, or 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.] 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 46541, 46699.)

COMPLAINT INSUFFICIENT

It is notable that Student previously filed a nearly identical complaint in June of 2024 that OAH deemed insufficient. Student dismissed that complaint on July 2, 2024, rather than amending it. The complaint was filed as a new case on July 18, 2024. In the current complaint, Student again alleges a single "problem" but fails to identify the violations of state or federal special education laws he is alleging.

Once again, the complaint fails to allege whether Student is currently eligible for special education services, or that Twin Rivers failed to assess for special education eligibility. Student also fails to identify what time frame is involved in the claim being asserted. Most importantly, Student fails to allege how his inability to "relate to his courses of instruction" his feelings of being "dispirited and discouraged," and his tardies and absences relate in any way to Twin Rivers' failure to provide services pursuant to an IEP or any other violation of the IDEA or California special education laws. Although Student has alleged, "The parents are entitled by law to free and appropriate public education (FAPE) and the services which the District failed to provide" this is mentioned only in relation to the Parents and their request for reimbursement for private school. The only allegation involving mention of an IEP is that Parents asked for an IEP to request private school reimbursement but were "stalled and misdirected" by Twin Rivers which parents allege constituted an "effective" denial of their request. All of these complaint inadequacies were pointed out in relation to Student's prior complaint filing. None of them were corrected in this new complaint.

Student has appended several documents to the complaint in this new case. However, it is unclear why. Student has appended a report card, a statement with Student's name on it but no indication of who wrote it or why; another statement that is unsigned, unattributed, and unclear as to its relevance; and a third from a teacher

describing her experience teaching Student for part of a class but offering no allegations as to special education needs. The complaint also attaches several pages of what appear to be the website of the private school Parents seek tuition for; and a letter from Parents asking for tuition reimbursement for private school. These documents also fail to allege violations of special education laws. Student is directed to put all allegations of violations of special education laws in the complaint itself, as neither the district, nor OAH is required to piece together allegations from multiple documents. (*E.M. v. Pajaro Valley Unified School District,* (9th Cir. 2011) 652 F. 3d. 999, 1010-1011, [The district court was not required to piece together vague and isolated phrases from E.M.'s complaint to create an auditory processing disorder as other health impairment claim on E.M.'s behalf. (dis.opn. of Bea.) citing *Greenwood v. FAA*, (9th Cir. 1994) 28 F. 3d 971, 977.) The complaint, as written, fails to provide adequate facts to allow Twin Rivers to prepare, or to participate in the resolution, mediation or hearing of this case.

ORDER

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 an amended complaint within 14 days of the date of this order, the complaint will be dismissed.

5. All dates previously scheduled in this matter are vacated.

IT IS SO ORDERED.

Penelope Pahl

Penelope S. Pahl

Administrative Law Judge,

Office of Administrative Hearings