BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

MORONGO UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2022030447

ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

MARCH 30, 2022

On March 14, 2022, Parent filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Morongo Unified School District. On March 30, 2022, Morongo Unified School District 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 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.)

DISCUSSION

The facts alleged in Student's complaint are sufficient. Student's complaint identifies six issues and adequate facts about the problem to permit Morongo Unified School District to respond and participate in a resolution session and mediation.

Student's complaint provides Morongo sufficient notice of "an awareness and understanding of the issues forming the basis of the complaint." Specifically, Morongo Unified School District is on notice that Student is arguing Morongo failed its child find obligation prior to 2015. Morongo denied Student a free appropriate public education for failing to assess him in all areas of suspected disability in 2015 and 2018. Student was denied a FAPE when Morongo failed to observe him in his learning environment in 2015 and 2018. Morongo denied him FAPE when it failed to make him eligible for special education in the areas of specific learning disability and other health impairment in 2015 and 2018. Morongo denied Student a FAPE when they failed to include parents in the IEP process in 2015, 2016, 2017, and 2018.

Morongo further argues Student's issues are barred by the Statute of Limitations; however, Student placed Morongo on notice it was attempting to extend the Statute of Limitations on the basis Morongo withheld material facts from the parents. Morongo has sufficient facts and information to participate in a resolution session. Whether the Statute of Limitations should be tolled is a question of law and fact and a sufficiency determination is not the appropriate vehicle to determine that question.

ORDER

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

IT IS SO ORDERED.

Tiffany Gilmartin
Tiffany Gilmartin (Mar 30, 2022 16:28 PDT)

Tiffany Gilmartin

Administrative Law Judge

Office of Administrative Hearings