BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

SANTA CRUZ CITY SCHOOLS AND MISSION HILL MIDDLE SCHOOL.

OAH CASE NUMBER 2020021270

ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

MARCH 17, 2020

On February 26, 2020, Parent on behalf of Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Santa Cruz City Schools and Mission Hill Middle School. Santa Cruz City received the complaint on March 6, 2020. On March 13, 2020, Santa Cruz City filed a timely 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 initiation or change regarding the student's identification, evaluation, or educational placement, or the provision of a free appropriate public education, referred to as a FAPE, to the student; (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, referred to as 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

Included in Student's complaint is a letter written by Parent dated April 25, 2018, an individualized education program, referred to as an IEP, signature and parent consent page signed by Parent on March 23, 2018, a document titled "A Parent's Concern" describing Parent's concerns, and a letter written to OAH. The complaint form and the attachments discuss a number of events and concerns by Parent. The complaint sufficiently describes one problem relating to the provision of a FAPE to Student. The April 25, 2018 letter describes a March 23, 2018 IEP team meeting. At the IEP team meeting, Parent claims the meeting was focused on interrogating and criticizing his parenting. Parent also claims he felt forced to sign the IEP. Parent further described how Parent was allegedly denied an opportunity to discuss the severity of Student's medical condition with the school's vice principal that Parent believed should have been considered by the IEP team. The "A Parent's Concern" document further alleged that Parent shared with the IEP team teacher reports related to Student's possible learning problems that the complaint alleges the school ignored. As to this alleged problem involving Parent's participation at the March 23, 2019 IEP team meeting, which will be referred to as Issue 1, the complaint sufficiently describes the alleged denial by the school to allow Parent to meaningfully participate in the IEP process in a way Parent believes he was entitled to. The complaint provides enough information to provide Santa Cruz City with an awareness and understanding of the problem. Therefore, the complaint is sufficient as to Issue 1.

However, the complaint fails to clearly and adequately describe any other alleged violation on the part of Santa Cruz City. The complaint mentions Parent's concern with an aspect of the multidisciplinary assessment report regarding a statement Student may have made. However, the complaint fails to allege sufficient facts to describe how the multidisciplinary assessment or the assessment report failed to meet legal requirements resulting in a denial of a FAPE to Student. In addition, the complaint fails to describe sufficient facts that demonstrated Student was eligible for special education and how Santa Cruz City failed to find Student eligible for special education and related services. The complaint falls short of providing Santa Cruz City with an awareness and understanding of the alleged violations against it as it relates to the assessment of Student and her eligibility for special education. Therefore, with respect to claims based on the assessment of Student or her eligibility for special education, the complaint is insufficient.

MEDIATOR ASSISTANCE FOR NON-REPRESENTED PARENTS: A parent without an attorney may request that OAH provide a mediator to assist the parent in identifying the issues and proposed resolutions that must be included in a complaint. (Ed. Code, § 56505.) Parents are encouraged to contact OAH for assistance if they intend to amend their due process hearing request.

ORDER

1. Issue 1 of Student's complaint is sufficient under title 20 U.S.C. section 1415(b)(7)(A)(ii).
2. Any other claims raised in Student's complaint are insufficiently pled under title 20 United States Code section 1415(c)(2)(D).
3. Student shall be permitted to file an amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II).

4. 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. 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 shall proceed only on Issue 1 in Student's complaint.

IT IS SO ORDERED.

DocuSigned by:
Rommel P. Cruz
2ABEBDA0DF98475...

Rommel P. Cruz

Administrative Law Judge

Office of Administrative Hearings