BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

CAMPBELL UNION SCHOOL DISTRICT, CALIFORNIA SCHOOL FOR THE DEAF, AND CALIFORNIA DEPARTMENT OF EDUCATION.

OAH CASE NUMBER 2022050685

ORDER DETERMINING DUE PROCESS COMPLAINT SUFFICIENT

JUNE 2, 2022

On May 18, 2022, Student filed a Request for Due Process Hearing, called a complaint, with the Office of Administrative Hearings, called OAH, naming Campbell Union School District, California School for the Deaf, and California Department of Education. On June 1, 2022, Campbell filed a Notice of Insufficiency as to the complaint. Campbell contends it is an improper party to the complaint because it is not responsible for providing a free appropriate public education, called FAPE, to Student. Thus, Campbell contends Student's complaint is insufficient as to Campbell because it does not meet the requirements of title 20 United States Code section 1415(b)(7)(A)(ii).

The parties named in a due process complaint 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 a student's identification, evaluation, or educational placement, or the provision of FAPE to a 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 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 is sufficient. The complaint alleges three issues and several sub-issues against Campbell, School for the Deaf, and the Department of Education. Each issue involves an alleged denial of FAPE to Student. Also, the complaint includes factual allegations to support the issues, including allegations against Campbell. Finally, the complaint includes proposed resolutions to the issues.

Campbell's argument that the complaint is insufficient because Campbell is not responsible for providing FAPE to Student, is unpersuasive. The purpose of a Notice of Insufficiency is not to challenge the merits of the complaint's allegations, but rather, to challenge its adherence to title 20 United States Code section 1415(b)(7)(A)(ii). Student's complaint meets the requirements of title 20 United States Code section 1415(b)(7)(A)(ii), and thus, provides sufficient information to allow Campbell to have an awareness of the issues and prepare for a resolution session and due process hearing. Accordingly, the prehearing conference and due process hearing will proceed as scheduled.

IT IS SO ORDERED.

Tara Doss

Tara Doss
Administrative Law Judge
Office of Administrative Hearings