BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

MANHATTAN BEACH UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2024090804

ORDER DETERMINING DUE PROCESS COMPLAINT PARTIALLY INSUFFICIENT

OCTOBER 14, 2024

On September 23, 2024, Student filed a request for due process hearing, called a complaint, with the Office of Administrative Hearings, called OAH, naming Manhattan Beach Unified School District. On September 25, 2024, Manhattan Beach filed a response to Student's complaint. On October 8, 2024, Manhattan Beach timely filed a notice of insufficiency as to the complaint. On October 11, 2024, Student filed an opposition.

The named parties have the right to challenge the complaint's sufficiency within 15 days of receiving the complaint. (20 U.S.C. § 1415(b) & (c); Ed. Code, § 56502, subds. (c) & (d)(1).) 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) and Education Code, section 56502, subdivision (c)(2).

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 alleges three issues in his complaint ranging from September 2022 through the filing of his complaint on September 23, 2024. Issue 1 is sufficient and Issues 2 and 3 are insufficient.

In Issue 1, Student alleges Manhattan Beach, since September 2022, failed to:

A. identify the cause of Student's academic and social emotional decline;
B. identify Student's autism spectrum disorder, Tourette's syndrome, oppositional defiant disorder, attention deficit hyperactivity disorder-combined type, generalized anxiety disorder, probable dyslexia, significant visual and auditory processing disorders, and extremely slow processing speed, which Student alleges impacted his ability to access the curriculum; and
C. recognize Student's unique and complex needs in areas of auditory processing, visual processing, inattention, and comprehension of complex syntactic structures and abstract concepts.

Student's complaint alleges facts sufficient to support and inform the Issue throughout several pages. Student alleges, in Issue 1 of his complaint, that private providers assessed Student and made various diagnoses, as set forth in subsection B, and identified a range of educationally related needs, as set forth in subsection C. Student also alleges that Manhattan Beach made an offer of FAPE in May 2022, which addressed various needs but did not address Student's anxiety, school avoidance, and

impact of medications on school participation. Student contends that Manhattan Beach should have conducted its own assessments between September 2022 and September 2024 but did not. The failure to assess resulted in Manhattan Beach's inability to address each of his unique needs, resulting in IEPs that did not offer a FAPE. Student's complaint further identifies IEP team meetings, letters from Student's counsel, and assessments shared with Manhattan Beach regarding Student's needs that went unaddressed. Student sufficiently pled Issue 1.

Student's Issue 2 reiterates facts from Issue 1 and repeats a failure to assess in all areas of suspected disability. Because Issue 2 is duplicative, it begs the question of whether Student meant to bring a different issue than that already raised in Issue 1.

Student, in Issue 3, alleges that Manhattan Beach denied Student a FAPE in IEPs dated May 9, 2022, April 25, 2023, December 18, 2023, and subsequent IEPs. In support of Issue 3, Student alleges Manhattan Beach should have known about and addressed needs including communication, social impairment, reciprocal conversation, repetitive and stereotyped patterns of behavior and interests, school refusal, school avoidance, work completion, and focus. With regard to the December 18, 2023 IEP, Student alleges he sought wrap-around services, counseling services, a one-to-one aide or a push-in-aide, and a smaller class size.

Student does not otherwise connect identified needs with perceived deficiencies in IEPs dated May 9, 2022, April 25, 2023, or "subsequent IEPs." Student's Issue 3 does not provide an awareness and understanding of the issues forming the basis of the complaint. Student does not challenge the appropriateness of offered goals, services, accommodations, modifications, placement, or any other necessary IEP component of each IEP at issue.

Additionally, Student does not allege a tolling of or exception to the two-year statute of limitations regarding the May 9, 2022 IEP. (*Avila v. Spokane School Dist. 81* (9th Cir. 2017) 852 F.3rd 936, 939-945; Ed. Code, § 56505, subd. (l).) Accordingly, the complaint is unclear as to whether allegations regarding the May 9, 2022 IEP are made for historical purposes, whether the IEP should have been amended within the two-year statute of limitations, or whether tolling or exception claims exist.

ORDER

1. Issue 1 of Student's complaint is sufficient under title 20 U.S.C. section 1415(b)(7)(A)(ii).
2. Issues 2 and 3 of Student's complaint are insufficiently pled under title 20 U.S.C. section 1415(c)(2)(D).
3. Student shall be permitted to file an amended complaint under title 20 U.S.C. 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 of Student's complaint.

Cole Dalton

Cole Dalton
Administrative Law Judge
Office of Administrative Hearings