BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

SAN JUAN UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2022080873

ORDER DETERMINING SUFFICIENCY OF DUE PROCESS COMPLAINT

SEPTEMBER 13, 2022

On August 26, 2022, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming San Juan Unified School District. On August 29, 2022, Student filed an amended complaint and request for due process hearing, naming San Juan. On September 12, 2022, OAH issued an Order Denying Student's Motion to Amend.

On September 13, 2022, San Juan filed a Notice of Insufficiency as to the amended complaint. San Juan's motion asserts that Student attempted to serve the complaint and request for due process hearing on August 29, 2022. San Juan did not receive a complete copy of the complaint and asked Student to provide a complete

complaint. On August 30, 2022, Student sent San Juan a document titled "Petitioners Amended Complaint and Request for Due process Hearing". San Juan asserts it has not been served with the operative complaint in this matter which was filed with OAH on August 26, 2022.

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

San Juan filed a Notice of Insufficiency as to the amended complaint because that is the only complete complaint provided to San Juan. The amended complaint is not the operative complaint in this matter. OAH only determines whether an operative complaint meets the sufficient pleading standard of the IDEA. As a result, San Juan's notice of insufficiency is denied without prejudice as it attacks the sufficiency of a non-operative complaint.

Nothing in this order prevents San Juan from filing a request to adjust the filing date of Student's complaint to conform to the date on which it is served with the operative complaint.

ORDER

1. No determination is made regarding the sufficiency of the operative complaint under title 20 United States Code section 1415(c)(2)(C) and Education Code section 56502, subdivision (d)(1).

2. All prehearing conference and hearing dates in this matter are confirmed.

IT IS SO ORDERED.

Marlo Nisperos

Marlo Nisperos

Administrative Law Judge

Office of Administrative Hearings