BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

BREA OLINDA UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2024030901

ORDER DETERMINING DUE PROCESS COMPLAINT INSUFFICIENT

APRIL 08, 2024

On March 27, 2024, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Brea Olinda Unified School District. On April 5, 2024, Brea Olinda 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)(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 considering 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, *3; *Escambia County Board of Education v. Benton* (S.D. Ala. 2005) 406 F.Supp.2d 1248, 1259-1260; *Sammons v. Polk County School Board* (M.D.Fla., Oct. 28, 2005, 8:04CV2657T24EAJ) 2005 WL 2850076, at *4; Cf. *M.S.-G v. Lenape Regional High School Dist. Board of Education* (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 Education of Children with Disabilities and Preschool Grants for Children with Disabilities* (Aug. 14, 2006) 71 Fed. Reg. 46,540-01, 46699.)

A complaint is required to include proposed resolutions to the problem, to the extent known and available to the party at the time. (20 U.S.C. §1415(b)(7)(A)(ii)(IV).)

DISCUSSION

Student's complaint alleges one claim. That issue is a parent participation claim which appears to be based on Brea Olinda's failure to have an individualized education program, or IEP, in place prior to the beginning of the 2023-2024 school year.

The facts alleged in Student's complaint are insufficient. Although the nature of the claim is identified, there is no factual basis for the claim set forth in the complaint. The charging allegations basically consist of three and one-half lines that only identify the claim. There is no information that indicates Student was eligible for special education, when Student was eligible, or other foundational facts supporting Student's claim that Brea Olinda should have had an IEP in place at the beginning of the 2023-2024 school year, but did not, which significantly impeded Parent's participation rights and deprived Student of educational opportunity and a free appropriate public education.

Student's complaint also has three proposed resolutions. Student seeks an order that requires Brea Olinda to convene an IEP team meeting to discuss the 2024-2025 school year educational placement, reimbursement for private educational services, as well as compensatory education. Student has met the statutorily required standard of stating a resolution.

ORDER

1. Student's complaint is insufficiently pled under section title 20 United States Code 1415(c)(2)(D).

2. Student shall be permitted to file an amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II).
3. 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.
4. If Student fails to file a timely amended complaint, the complaint will be dismissed.
5. All dates previously set in this matter are vacated.

IT IS SO ORDERED.

Laurie Gorsline

Laurie Gorsline

Administrative Law Judge

Office of Administrative Hearings