BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021030895

ORDER OF DETERMINATION OF INSUFFICIENCY OF DUE PROCESS COMPLAINT

APRIL 12, 2021

On March 24, 2021, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Los Angeles Unified School District. On April 9, 2021, Los Angeles 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)(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

Here, Student alleges one issue with several subparts, comprising a denial of a free appropriate public education, referred to as a FAPE, from March 5, 2020 through the end of the 2020-2021 school year. Other than 8 pages of an assessment conclusions regarding Student, the other 7 pages of Student's complaint, two of which are very detailed proposed resolutions, is fraught with generalities regarding how Los Angeles denied Student a FAPE, making it impossible to ascertain what deficiencies Student alleges throughout the time period at issue. The allegations in Student's complaint could apply to any student, attending any school, in any local educational agency, at any time. Each of the issues, 1(a) through 1(e), are insufficient for the reasons discussed below.

Issue 1(a) alleges Los Angeles failed to appropriately assess Student in all areas of suspected disability. Student alleges the failure took place prior to the June 12, 2020 individualized education program, also called an IEP. The complaint does not identify any areas of suspected disability Los Angeles failed to assess. Neither does the complaint allege what assessments Los Angeles conducted, when, and how they were deficient. Failure to identify specific assessments and perceived deficiencies renders the complaint vague and confusing and does not provide Los Angeles with sufficient information needed to prepare for hearing. For these reasons, Issue 1(a) is deficient.

Issue 1(b) alleges Los Angeles' assessments and IEPs failed to properly identify and address the full range of Student's needs. Issue 1(b) is insufficient because merges issues pertaining to assessments with IEPs and different laws apply to each. Moreover, Student fails to allege which IEPs or assessments are at issue and which claimed deficiencies exist in such IEPs or assessments. The failure to specify unaddressed needs and the IEPs or assessments to which they relate renders the complaint vague and confusing and does not provide Los Angeles with sufficient information needed to prepare for hearing. For these reasons, Issue 1(b) is insufficient.

Issue 1(c) alleges Los Angeles failed to offer IEPs with appropriate present levels of performance, measurable annual goals, and accommodations to properly meet Student's needs. The complaint fails to allege a single present level, annual goal, or accommodation tied to any area of need in any specific IEP, or in the alternative that every present level, annual goal or accommodation was inadequate. The failure to identify IEPs at issue with regard to each claimed deficiency renders the complaint vague and confusing and does not provide Los Angeles with sufficient information needed to prepare for hearing. For these reasons, Issue 1(c) is insufficient.

Issue 1(d) states a list of placement and services which Student contends Los Angeles should have offered but did not. Student fails to allege what Los Angeles offered, in which IEP, as Student alleged in Issues 1(b) and (c) multiple IEPs, and how each offer was deficient. The failure to specify IEPs at issue with regard to each claimed deficiency renders the complaint vague and confusing and does not provide Los Angeles with sufficient information needed to prepare for hearing. For these reasons, Issue 1(d) is insufficient.

Issue 1(e) alleges Los Angeles committed a string of various procedural violations, including failing to timely and properly provide an assessment plan and assess Student, consider a private assessor's findings, hold timely IEP meetings, timely initiate a due process proceeding, allow Parents' meaningful participation at IEP meetings, and make a formal and specific offer of placement and services. For example, Student fails to allege when Los Angeles failed consider the private assessment findings, what IEP team meetings were untimely, and what assessment plans were untimely or when Los Angeles failed to provide Parents with a timely assessment plan. The failure to allege when the acts or omissions that gave rise to the procedural violations occurred renders the complaint vague and confusing and does not provide Los Angeles with sufficient information needed to prepare for hearing. For these reasons, Issue 1(e) is insufficient.

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.

Cole Dalton

Cole Dalton
Administrative Law Judge
Office of Administrative Hearings