BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

ELK GROVE UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2022060535

ORDER OF DETERMINATION OF PARTIAL SUFFICIENCY OF DUE PROCESS COMPLAINT

JULY 8, 2022

On June 20, 2022, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Elk Grove Unified School District. On July 5, 2022, Elk Grove 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

Student's complaint alleges ten issues. Elk Grove argues the issues are vague, lack specificity regarding issues, goals, and the time period at issue. Additionally, Elk Grove asserts that Student seeks to extend the statute of limitations without alleging any basis upon which to seek an extension. Specifically, Issues 1, 2, 3, 5, and 8 assert claims arising more than two years prior to filing the due process complaint.

Issues 4, 6, 7, 9, and 10 are sufficiently pled. These issues contain adequate facts about the problem to permit Elk Grove to respond and participate in a resolution session and mediation.

The remaining claims are not sufficiently pled. The statute of limitations in California is two years, consistent with federal law. (Ed. Code, § 56505, subd. (l); see also 20 U.S.C. § 1415(f)(3)(C).) There are limited exceptions to the general statute of limitations. For example, when parent was prevented from filing a request for due process due to specific misrepresentations by the local education agency that it had resolved the problem forming the basis of the complaint, or that the local education agency withheld information from the parent that it was required to provide. (Ed. Code § 56505, subd. (l), tit. 20 U.S.C. section 1415(f)(3)(D).) Additionally, as permitted under federal law, California has adopted its own discovery rule. California's law states that a claim accrues for purposes of the statute of limitations when a parent learns of the underlying facts that form a basis for the action. (Ed. Code, § 56505, subd. (l).)

In this complaint, Student provides no facts, assertions, or argument regarding the basis upon which the statute of limitations should be extended. This prevents Elk Grove from knowing how to respond to Student's complaint and participate in a resolution session and mediation.

1. Issues 4, 6, 7, 9, and 10 of Student's complaint are sufficient under title 20 U.S.C. section 1415(b)(7)(A)(ii).
2. Issues 1, 2, 3, 5, and 8 of Student's complaint are insufficiently pled under title 20 United States Code section 1415(c)(2)(D).
3. Student shall be permitted to file an amended complaint under title 20 United States Code 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 Issues 4, 6, 7, 9, and 10 in Student's complaint.

IT IS SO ORDERED.

Tiffany Gilmartin
Tiffany Gilmartin (Jul 8, 2022 10:12 PDT)

Tiffany Gilmartin

Administrative Law Judge

Office of Administrative Hearings