BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

GILROY UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2024030710

ORDER DETERMINING DUE PROCESS COMPLAINT INSUFFICIENT

APRIL 5, 2024

On March 20, 2024, Student filed a due process hearing request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Gilroy Unified School District, called Gilroy. On April 4, 2024, Gilroy 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 46,540-46,541, 46699.)

DISCUSSION

Student's complaint alleges one insufficiently pled claim regarding Gilroy's alleged failure to meet its Child Find obligations to Student, which allegedly resulted in a denial of a free appropriate public education, called a FAPE.

However, the complaint does not specify the timeframe in which Student is alleging that Gilroy denied Student a FAPE. This is relevant because the complaint includes facts suggesting that Gilroy may have denied Student a FAPE as far back as August 2020, significantly beyond the two-year statute of limitations that applies to special education claims. (20 U.S.C. § 1415(f)(3)(C)-(D); Ed. Code § 56505, subd.(l).) It is not clear whether Student is attempting to pierce the statute of limitations with this claim, and allege a denial of FAPE beginning in August 2020, or whether Student is alleging a denial of FAPE for different points in time.

As pled, Student's complaint does not provide Gilroy with the required problem description and the facts relating to the problem such that Gilroy may prepare a defense to Student's complaint, including participating in a resolution session, mediation, or due process hearing.

In its notice of insufficiency, Gilroy seeks a finding that Student may not bring claims beyond the two-year statute of limitations. This Order makes no determination as to the applicable statute of limitation for Student's claim, or whether an exception to the statute of limitations may apply.

Gilroy also seeks a finding that Student may not bring claims against Gilroy during the time Student was allegedly enrolled in a different local educational agency. This Order makes no finding regarding Student's responsible local educational agency at any point in time.

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.

Ashok Pathi

Ashok Pathi
Administrative Law Judge
Office of Administrative Hearings