BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

CLOVIS UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2024090170

ORDER DETERMINING NON-EXPEDITED DUE PROCESS CLAIMS SUFFICIENT

SEPTEMBER 16, 2024

On September 5, 2024, Parent, on behalf of Student, filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, called OAH, naming Clovis Unified School District as respondent. Although entitled an Expedited Due Process Hearing Request, the complaint included expedited issues and non-expedited issues. As a result, OAH scheduled the complaint for dual expedited and non-expedited procedures. On September 16, 2024, Clovis filed a Notice of Insufficiency as to the complaint, on the grounds that the complaint does not allege any non-expedited claims.

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 Individuals with Disabilities Education Act, or 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.] 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 46541, 46699.)

SUFFICIENCY DETERMINATION PROCESS NOT AVAILABLE FOR EXPEDITED CLAIMS

Title 20 United States Code section 1415(k)(3) permits a party to request an expedited hearing for specified reasons. An expedited hearing can be requested to appeal a disciplinary change of placement, such as placement in an alternative

education setting, or to appeal a manifestation determination regarding student conduct. The IDEA requires an expedited hearing start within 20 school days from the hearing request. Section 1415(k) does not include a provision to test the complaint's sufficiency. Indeed, there is insufficient time to complete the NOI process in expedited hearings.

In this case, the complaint alleges both expedited and non-expedited claims.

Student alleges the following Expedited Claims:

1. The manifestation determination review team failed to consider all relevant factors, including Student's disabilities, medical history, and individualized educational program, or IEP goals, in determining whether the behavior was caused by or had a direct and substantial relationship to his disability.
2. Clovis Unified School District refused to provide critical evidence, including camera footage and witness statements, which are necessary for a fair and informed decision-making process under the IDEA.
3. The manifestation determination review team's failure to address whether CUSD had fully implemented Anthony's IEP and behavior intervention plan, or BIP, prior to the incident is another significant procedural violation under 34 C.F.R. §300.530(e).

These expedited claims are not subject to a Notice of Insufficiency. Furthermore, Clovis has not asserted a notice of insufficiency as to Student's expedited claims.

The Student alleged the following non-expedited claims:

4. The IDEA requires that schools provide a Free Appropriate Public Education ("FAPE") to students with disabilities, which includes the appropriate implementation of the student's IEP and BIP.

5. Petitioner further requests that the California Department of Education immediately halt all federal and state funding to the Clovis Unified School District until the district complies fully with the IDEA, including but not limited to providing Anthony with FAPE and ensuring that his IEP and BIP are properly implemented.

6. The district's ongoing failure to comply with its legal obligations, its procedural violations during the manifestation determination review process, and its refusal to provide necessary evidence demonstrate a willful disregard for the rights of students with disabilities. As such, withholding state and federal funding is appropriate to compel immediate compliance with the law.

Minimal pleading standards apply to requests for due process pursuant to the IDEA. (*Schaffer ex rel. Schaffer v. Weast*, (2005) 546 U.S. 49, 54 [126 S.Ct. 528, 163 L.Ed.2d 387].) As explained previously, pleading requirements are liberally construed to accomplish the broad remedial goals of the IDEA. (*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.]

Student's complaint alleges his range of disabilities; that the disabilities impact his emotional regulation, social interaction and impulse control; and that his IEP includes a behavior intervention plan to address behavioral challenges. These facts coupled with Student's allegation that Clovis failed to implement his IEP and provide FAPE due to the failure to appropriately implement his IEP and behavior intervention plan offer Clovis adequate information to prepare for resolution session, mediation and hearing. Student also alleges claims of discrimination, and a request to halt state and federal funding, due to Clovis' failure to comply with the IDEA. Whether all of these are claims that fall within OAH jurisdiction, or are subject to dismissal on other grounds is not determined via a Notice of Insufficiency. However, on their face, these claims do give Clovis adequate information to prepare for resolution session, mediation and hearing. The non-expedited claims are sufficient claims.

ORDER

1. The expedited claims are not subject to a sufficiency determination as such a procedure is not provide for in the IDEA. (20 U.S.C. 1415(k)(3(B).)
2. The non-expedited claims are sufficient under the IDEA. (20 U.S.C. § 1415(b)(7)(A)(ii).)
3. All mediation, prehearing conference, and hearing dates in this matter are confirmed and shall proceed as currently scheduled.

4. Nothing in this order limits an Administrative Law Judge's ability to clarify details associated with any of the alleged claims during a prehearing conference.

IT IS SO ORDERED.

Penelope Pahl

Penelope S. Pahl
Administrative Law Judge
Office of Administrative Hearings