BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

THERMALITO UNION ELEMENTARY SCHOOL DISTRICT.

OAH CASE NUMBER 2024110573

ORDER DETERMINING DUE PROCESS COMPLAINT PARTIALLY INSUFFICIENT

DECEMBER 2, 2024

On November 15, 2024, Parents, on behalf of Student, filed a Due Process Hearing Request, also called a complaint, with the Office of Administrative Hearings, called OAH, naming Thermolito Union Elementary School District as respondent. On November 27, 2024, Thermolito filed a Notice of Insufficiency as to the complaint. On December 2, 2024, Student filed an opposition to the Insufficiency Notice.

APPLICABLE LAW

A party has the right to file a notice asserting a complaint is insufficient within 15 days of receiving a request for due process hearing. (20 U.S.C. § 1415 (c)(2)(C); Ed. Code

§ 56502, subd. ((d)(1).) 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.)

STUDENT'S JURISDICTION ALLEGATION IS SUFFICIENT

Thermolito asserts, as an initial statement of insufficiency, that Student failed to allege she was a resident or enrolled in the district. This is untrue. Student alleges both that she was a resident of the district, and her specific school enrollment, on page 2 of the complaint. This is not a determination of the accuracy of the facts pled. That

requires proof at hearing. This is only a ruling that Student adequately pled she lived in and was enrolled in the district. However, while the jurisdictional statement meets sufficiency standards, student's complaint is not entirely sufficient.

SUFFICIENTLY PLED ISSUES REMAIN IN THE COMPLAINT

Student alleges 26 issues, one of which is not lettered. The unlettered allegation follows letter I. Some of the issues are too vague to offer Cthe ability to prepare for resolution session, mediation or hearing. Those are discussed later in this order. While several more issues appear duplicative, or outside OAH jurisdiction; at the NOI stage, sufficiently pled allegations remain in the complaint.

ISSUES A, C, AND V, ARE TOO VAGUE

Student's issue A alleges: Did the District fail to materially and appropriately provide Brylynn with a meaningful educational benefit? The narrative following the issue statement asserts "intentional or negligent lack of support; a worsening of Student's behaviors, and an "inability to cope" with Student's behaviors. The allegations go on to assert psychological harm due to being abandoned and rejected by the District and accompanying harm to Student's "reputation."

These are not IDEA or California special education violations that are clearly enough stated for Thermolito to determine the claims against it to allow the district to prepare for resolution session, mediation or hearing. Neither Thermolito, nor this tribunal can be required to comb through a 20 page complaint to piece together phrases to try to decipher the claims Student is asserting in the request for due process. (see, *E.M. v. Pajaro Valley Unified School District,* (9th Cir. 2011) 652 F. 3d. 999, 1010-1011.) Similarly vague allegations are also stated in Student's issues C and V. The allegations in issues A, C, and V are too vague to allow Thermolito to understand the

issues being stated against it and prepare to proceed to resolution session, mediation or hearing.

ISSUES B, D, E, F, G, H, I, THE ADDITIONAL ISSUE FOLLOWING I, J, K, L, M, N, O, P, Q, R, S, T, U, W, X, Y, SUFFICIENTLY PLED

Issues B, D. E, include adequate detail in the narrative following the issue statement for Thermolito to understand the allegations asserted. Issue F is also sufficiently clear, however, the words "[and other special education candidates in the District(s)" *(sic)* are stricken, as no other special education candidates have pled claims. Additionally, issues G, H, I, the additional issue following I, J, K, L, M, N, O, P, Q, R, S, T, U, W, X, and Y, are sufficient pled for Thermolito to understand the allegations asserted against it and to prepare for resolution session, mediation and hearing.

ORDER

1. Student's statements of residence and enrollment in the Thermolito district are sufficiently pled.
2. Issues B, D, E, F, (except for the statement regarding students other than Student which is stricken); G, H, I, the additional issue following I, J, K, L, M, N, O, P, Q, R, S, T, U, W, X, and Y, of Student's complaint are sufficient under title 20 U.S.C. section 1415(b)(7)(A)(ii).
3. Issues A, C, and V of Student's complaint are insufficiently pled under title 20 United States Code section 1415(c)(2)(D).
4. Student shall be permitted to file an amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II).
5. 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.

6. Student's amended complaint shall number the issues and double space the request for due process hearing pleading.
7. If Student fails to file a timely amended complaint, the hearing shall proceed only on Issues B, D, E, F, (except for the statement regarding students other than Student which is stricken); G, H, I, the additional issue following I, J, K, L, M, N, O, P, Q, R, S, T, U, W, X, and Y in Student's complaint.
8. Nothing in this order limits another Administrative Law Judge from clarifying issues, eliminating duplicate issues, or determining issues lie outside OAH jurisdiction.

IT IS SO ORDERED.

Penelope Pahl

Penelope S. Pahl
Administrative Law Judge
Office of Administrative Hearings