BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

TWIN RIVERS UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2024080476

ORDER DETERMINING DUE PROCESS COMPLAINT PARTIALLY SUFFICIENT

AUGUST 20, 2024

On August 13, 2024, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Twin Rivers Unified School District, called Twin Rivers to District. On August 19, 2024, District 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)(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, *3; *Escambia County Board of Education v. Benton* (S.D. Ala. 2005) 406 F.Supp.2d 1248, 1259-1260; *Sammons v. Polk County School Board* (M.D.Fla., Oct. 28, 2005, 8:04CV2657T24EAJ) 2005 WL 2850076, *4; Cf. *M.S.-G v. Lenape Regional High School Dist. Board of Education* (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 Education of Children with Disabilities and Preschool Grants for Children with Disabilities* (Aug. 14, 2006) 71 Fed. Reg. 46,540-01, 46699.)

A complaint is required to include proposed resolutions to the problem, to the extent known and available to the party at the time. (20 U.S.C. §1415(b)(7)(A)(ii)(IV).)

DISCUSSION

On June 10, 2024, Student filed a complaint with OAH naming District in case No. 2024060387. On June 19, 2024, OAH found the complaint insufficient and gave Student 14 days leave to amend. On July 5, 2024, OAH dismissed the case because Student did not file an amended complaint.

On July 18, 2024, Student filed a new action with OAH naming District in case No. 2024070639. On July 30, 2024, OAH found the complaint insufficient and gave Student 14 days leave to amend. On August 12, 2024, OAH dismissed the case because Student did not file an amended complaint.

District improperly refers to the complaint filed in the current matter as the second amended complaint. In fact, it is not an amended complaint, but a new complaint filed in the third matter initiated by Student against Twin Rivers regarding Student's time at Grant View High School during the 2022-2023 school year and part of the 2023-2024 school year.

Student has provided long narratives under the headings "Problem or Complaint Number 1" and "Problems or Complaint Number 2," with multiple factual allegations or claims within the narratives. Among other things, Student alleges he had an IEP during middle school, and it was because of this IEP, he was able to move from middle school to high school. Student alleges that upon entering high school, Student began struggling immediately. Student alleges that despite Parent's requests in October 2022 and March 2023, District failed to convene an IEP team meeting. Student alleged that he declined emotionally and academically over the course of three semesters, causing

Parents to pull Student out of Grant High School and enroll him at Miracle University in Spring 2024. Student alleges that at the May 2024 IEP team meetings, District refused to agree to reimburse Parents for the cost of tuition at Miracle University by preventing discussion of reimbursement. As the resolution, Student seeks an order for reimbursement for tuition at Miracle University for the semesters Student has already completed and prospectively through graduation. Based on these allegations, OAH understands Student's claims to be as follows:

1. Did District deny Student a free appropriate public education, called FAPE, by failing to convene an individualized education program, or IEP, team meeting in response to Parent's October 2022 request for an IEP team meeting to develop an appropriate IEP to address his needs?
2. Did District deny Student a FAPE by failing to convene an IEP team meeting in response to Parent's March 2023 request for an IEP team meeting to address Parent's concerns that Student was failing his classes and develop an appropriate program to address his needs?
3. Did District deny Student a FAPE by refusing to reimburse Parents for the cost of tuition at Miracle University at the IEP team meetings held on May 9 and May 16, 2024, when it prevented discussion of reimbursement?

These three claims and the reimbursement resolution have been sufficiently alleged as to the basis of Student's claims to permit District to prepare for a resolution session, mediation, and hearing.

However, to the extent Student intended to allege different or additional claims other than these three issues, Student's complaint is insufficient. Regarding any different or additional claims, Student is required to file an amended pleading providing a concise statement of each issue separately by number. For example, to the extent

Student is attempting to assert a FAPE claim based on District's failure to offer placement at Miracle University, Student's claim is insufficient. Student does not identify any date(s) of Parent requested such placement and/or the date(s) of District's refusal or failure to offer such placement, and the circumstances of such request/refusal/failure to offer, including the date of the IEP at issue, if any. In fact, Student does not specifically challenge the appropriateness of any IEP other than to allege that tuition reimbursement was refused at the May 2024 IEP team meetings as set forth in Issue 3. If Student intended to challenge any offer of special education and related services made in an IEP, including placement, Student has not sufficiently alleged such claim because Student has not identified the IEP Student is challenging, including the date of the IEP and the specific component(s) of the IEP Student claims were inappropriate.

ORDER

1. Issues 1 through 3 as enumerated above are sufficient under title 20 U.S.C. section 1415(b)(7)(A)(ii).
2. Any other Issues Student intended to raise 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 1 through 3 enumerated above.

IT IS SO ORDERED.

Laurie Gorsline

Laurie Gorsline

Administrative Law Judge

Office of Administrative Hearings