BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

LONG BEACH UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2023040227

ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

APRIL 18, 2023

On April 7, 2023, Parents on behalf of Student filed a due process hearing request, called a complaint, with the Office of Administrative Hearings, called OAH, against Long Beach Unified School District. On April 17, 2023, Long Beach filed a notice of insufficiency as to Student's 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).

The complaint is deemed sufficient unless a party notifies OAH and the other party in writing within 15 days of receiving the complaint that the party believes the complaint has not met the notice requirements. (20 U.S.C. § 1415(c)(2)(C); Ed. Code, § 56502, subd. (d)(1).) Here, Long Beach timely filed its notice of insufficiency.

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.)

Long Beach contends that Student's complaint is insufficient because it fails to plead any allegation against it. Long Beach's assertion is persuasive.

Student's complaint consists of sections entitled: STUDENT AND PARENT, RESPONDENT, NATURE OF THE PROBLEMS, LEGAL STANDAND AND JURISIDICTION, EDUCATIONAL HISTORY, APPROPRIATE AND INDIVIDUALIZED EDUCATIONAL PROGRAM, AND PROPOSED RESOLUTION. There is no section entitled issues or claims and no section provides any clearly defined claims or allegations against Long Beach.

Under the section NATURE OF THE PROBLEMS, Student states "at no time in the past 2 years has District's offered program met [Student's] individual and unique needs." To the extent that this is an allegation against Long Beach, it is insufficiently pled as vague, overly broad, ill-defined, and conclusory. Without any specificity or connection to the facts, it fails to put Long Beach on notice as to the basis of Student's claim. Thus, Student's complaint is insufficient.

Under the section APPROPRIATE AND INDIVIDUALIZED EDUCATION PROGRAM, Student states "Respondent knew or should have known that in order to be provided with an appropriate education program that met her unique needs and would have allowed her to derive educational benefit, [Student] required a program that was individualized to her unique academic needs, and which was designed to allow her to make academic program." To the extent that this is an allegation against Long Beach, it also is insufficient because it is vague, overly broad, ill-defined, and conclusory. Without including any specific facts related to this statement, Long Beach is without proper

notice and unable to prepare a defense or prepare for mediation and hearing. Thus, Student's complaint is insufficient.

ORDER

1. Student's complaint is insufficiently pled under section title 20 United States Code 1415(c)(2)(D).
2. Student will be permitted to file an amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II).
3. The amended complaint must comply with the requirements of title 20 U.S.C. section 1415(b)(7)(A)(ii) and must 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.

Cynthia Fritz

Cynthia Fritz
Administrative Law Judge
Office of Administrative Hearings