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 2023020613

ORDER DETERMINING SUFFICIENCY OF DUE PROCESS COMPLAINT

MARCH 10, 2023

On February 16, 2023, Parents, on behalf of 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 as respondent. On March 9, 2023, Twin Rivers 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).

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).)

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.] 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.)

DISCUSSION

Student's complaint was filed on February 16, 2023. The sworn proof of service attached to the complaint states the complaint was served via facsimile and regular U.S. mail on that date.

Twin Rivers' Notice of Insufficiency was filed with OAH, and served on March 9, 2023, which is more than 15 days after it received Student's complaint. Twin Rivers argues in its moving papers that it did not receive the facsimile transmission on February 16, 2023 and only received the complaint when a copy was emailed on February 23, 2023. However, no declaration establishes this fact.

The date of service is disputed. The proof of service, which was signed under oath, states the complaint was served on February 16, 2023. No sworn evidence establishes Twin Rivers' assertion regarding the failure to file on time. Furthermore, Twin Rivers' argument does not address the fact that the complaint was also served by mail according to the proof of service.

Twin Rivers has failed to establish it did not receive a copy of the complaint until February 23, 2023. The preponderance of the evidence establishes that the complaint was served on February 16, 2023. Therefore, Twin Rivers' Notice of Insufficiency was not timely filed, and Student's complaint is deemed sufficient.

ORDER

1. The complaint is deemed sufficient under title 20 United States Code section 1415(c)(2)(C) and Education Code section 56502, subdivision (d)(1).
2. All prehearing conference, and hearing dates in this matter are confirmed.

IT IS SO ORDERED.

Penelope S. Pahl

Penelope S. Pahl

Administrative Law Judge

Office of Administrative Hearings