BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

ESCONDIDO UNION ELEMENTARY SCHOOL DISTRICT.

OAH CASE NUMBER 2024040004

ORDER DETERMINING DUE PROCESS COMPLAINT PARTIALLY SUFFICIENT

APRIL 16, 2024

On March 29, 2024, Student filed a due process hearing request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Escondido Union Elementary School District. On April 12, 2024, Escondido Union filed a notice of insufficiency as to the complaint.

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)(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 Board of Educ. 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 [nonpub. opn.]; but cf. *M.S.-G v. Lenape Regional High School Dist. Board 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 46540-46541, 46699.)

Student's complaint alleges 13 issues, some of which are sufficient and some which are insufficient. Escondido Union contends Issues 1 through 7 are insufficiently pled because they fall outside the statute of limitations and Student did not allege an

exception to the statute of limitations. Escondido Union contends Issues 10 and 11 are vague and confusing because they do not include any dates for the alleged violations.

The statute of limitations in California is two years, consistent with federal law. (Ed. Code, § 56505, subd. (l); see also 20 U.S.C. § 1415(f)(3)(C).) However, title 20 United States Code section 1415(f)(3)(D) and Education Code section 56505, subdivision (l), establish exceptions to the statute of limitations in cases in which the parent was prevented from filing a request for due process due to specific misrepresentations by the local educational agency that it had resolved the problem forming the basis of the complaint, or the local educational agency's withholding of information from the parent that was required to be provided to the parent.

Issues 1 through 6 all predate the two-year statute of limitations. Student does not allege any facts that Escondido Union misrepresented any information or withheld information from Parents. Additionally, Student does not allege an exception to the two-year statute of limitations. Therefore, Issues 1 through 6 are insufficiently pled.

Regarding Issue 7, Student alleges Escondido Union denied Parents meaningful participation because Escondido Union did not provide them with progress notes on goals from February 24, 2022, through June 2022. Student again failed to allege an exception to the two-year statute of limitations. Therefore, Issue 7 is sufficiently pled, but limited to claims that arose after March 28, 2022.

Issues 10 and 11 allege violations for Escondido Union's failure to conduct a functional behavior assessment or implement a behavior intervention plan. Issues 10 and 11 do not specify when the violation occurred. However, in the statement of facts, Student alleges facts about Student's behavior during the 2022-2023 and 2023-2024 school years, including that Escondido Union did not conduct a functional behavior

assessment or develop and implement a behavior intervention plan. Therefore, Issues 10 and 11 allege sufficient facts to provide Escondido Union an awareness and understanding of the issues. However, because Student did not allege an exception to the two-year statute of limitations, Issues 10 and 11 are limited to claims that occurred after March 28, 2022.

Student's proposed resolutions request appropriate placement, compensatory education, independent educational evaluations, and a nonpublic school placement. 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).) Student has met the statutorily required standard of stating a resolution to the extent known and available to him at the time.

ORDER

1. Issues 1 through 6 of Student's complaint are insufficiently pled under title 20 United States Code section 1415(c)(2)(D).
2. Issue 7 of Student's complaint is limited to claims that occurred from March 29, 2022, through June 2022.
3. Issues 8, 9, 12, and 13 of Student's complaint are sufficient under title 20 United States Code section 1415(b)(7)(A)(ii).
4. Issues 10 and 11 are limited to claims that occurred after March 28, 2022.
5. Student shall be permitted to file an amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II).
6. The amended complaint shall comply with the requirements of title 20 United States Code 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.

7. If Student fails to file a timely amended complaint, the hearing shall proceed only on Issues 7, 10, and 11 as limited in this Order, and Issues 8, 9, 12, and 13.

Linda Dowd

Linda Dowd

Administrative Law Judge

Office of Administrative Hearings