BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

OROVILLE UNION HIGH SCHOOL DISTRICT, PARADISE UNIFIED SCHOOL DISTRICT, AND FAR NORTHERN REGIONAL CENTER.

OAH CASE NUMBER 2023040952

ORDER DETERMINING DUE PROCESS COMPLAINT INSUFFICIENT

MAY 11, 2023

On April 25, 2023, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Oroville Union High School District, Paradise Unified School District and Far Northern Regional Center as respondents. On May 10, 2023, Paradise 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)(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.)

INSUFFICIENT CLAIMS

Student's complaint alleges three claims, all of which are insufficient. As a result, the complaint fails to provide Paradise with the required problem description, and the facts relating to the problem, to enable it to prepare for resolution, mediation and hearing.

Student used the OAH complaint form which identifies issues as problems or complaints. The complaint asserts claims against multiple parties but fails to identify which party did what to violate the Individuals with Disabilities Education Act, or IDEA.

Problem number 1 stated that Student was "misappropriated in the wrong district" resulting in graduation being denied, but provides inadequate facts to explain the problem. The problem statement goes on to allege that Student suffered discrimination, but does not state how this violated the IDEA. The proposed solution to the problem appears to further allege Student believed she was on diploma track but was changed to a certificate of completion without her knowledge, and asserts a question about an "EBT Card" that states no facts relating it to an IDEA violation. As these claims are not included in a problem statement, it is unclear if Student is raising these as issues. Student has failed to state facts giving Paradise notice of what it did to violate the IDEA, resulting in the issue, also called a problem or complaint, being insufficient.

It is unclear if Problem Number 2 is a separately stated problem or a continuation of Problem 1. The facts in problem 2 continue to discuss being denied the opportunity to participate in a graduation ceremony. It is unclear what Student is saying Paradise did to violate the IDEA. The solutions Student states to Problem 2 state she "has many unanswered questions" but those questions are not listed and there is no way of determining whether they fall within the jurisdiction of OAH's special education division. Towards the end of the Solution to Problem 2, Student states "I didn't receive College Prep." However, there are no facts that explain the statement or what Paradise did to violate the IDEA in relation to Student's college preparation. Finally, the statements in Problem number two appear to be incomplete, as there is an arrow at the conclusion of the problem statement indicating further information is being provided, but no completion of the sentence beginning with "No answers why…" Student has failed to state facts giving Paradise notice of what it did to violate the IDEA, resulting in the issue, also called a problem or complaint, being insufficient.

Problem 3 fails to allege the facts necessary to understand fully what is being alleged. Problem 3 makes statements, but fails to include facts supporting them, including, "teacher wasn't suppose to correct my work (only K-7th grade)"(sic); "no O.T."; "no triennial;" "I didn't have an age appropriate accredited special ed teacher PUSD assigned;" and, that the Individualized Educational Program, or IEP document "doesn't match." The complaint fails to state the facts resulting in an IDEA violation, when these occurred, or the entity responsible for the violation. Student has failed to state facts giving Paradise notice of what it did to violate the IDEA, resulting in the issue, also called a problem or complaint, being insufficient.

MEDIATOR ASSISTANCE FOR NON-REPRESENTED PARTIES

A party without an attorney may request that OAH provide a mediator to assist the party in identifying the issues and proposed resolutions that must be included in a complaint. (Ed. Code, § 56505.) Student is encouraged to contact OAH for assistance if she intends to amend the due process hearing request.

MEDIATION AVAILABLE

OAH provides free mediation of disputes regarding special education claims. Mediation can be requested with the filing of a request for due process, or on its own as a "Mediation Only." Student may call OAH for further information regarding how to request mediation of her claims.

ORDER

1. Student's complaint is insufficiently pled under section title 20 United States Code 1415(c)(2)(D).
2. Student shall be permitted to file an amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II).
3. 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.

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.

Penelope S. Pahl

Penelope S. Pahl

Administrative Law Judge

Office of Administrative Hearings