BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. STANISLAUS UNION SCHOOL DISTRICT.	OAH Case No. 2018120620 ORDER DETERMINING INSUFFICIENCY OF DUE PROCESS COMPLAINT

On December 17, 2018, Parents on behalf of Student filed a Due Process Hearing request (complaint) with the Office of Administrative Hearings naming Stanislaus Union School District. On December 28, 2018, Stanislaus filed a Motion to Dismiss or in the alternative a Notice of Insufficiency to Student's complaint. This order addresses only Stanislaus' challenge to the sufficiency of Student's complaint. Stanislaus' motion to dismiss is addressed in a separate order.

APPLICABLE LAW

The named parties to a due process hearing request have the right to challenge the sufficiency of the complaint. (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 contains: (1) a description of the nature of the problem of the child relating to the proposed initiation or change concerning the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to the child; (2) facts relating to the problem; and (3) a proposed resolution of the problem 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.)

DISCUSSION

Student initially enrolled in Stanislaus in the first grade in school year 2013-2014. Student remained enrolled in Stanislaus until fourth grade during school year 2015-2016. Student enrolled in a different school district for fifth and sixth grade. Student re-enrolled in Stanislaus for school year 2018-2019.

Student's due process complaint raises eleven issues numbered alphabetically (a)-(k), which are all insufficiently pled as discussed below. Student's complaint is insufficiently pled in that it fails to provide Stanislaus with the required notice of a description of the problem and the facts relating to the problem. Issues (a)-(j) are insufficiently pled because the complaint makes allegations against Stanislaus back to the 2013-2014 school year and requests a remedy which includes five years of compensatory education, yet the issues do not reference the time period for which the issues allege violations. It is unclear which time periods Student intends each individual issue to encompass, and this information is a critical element necessary for Stanislaus to understand the complaint.

In issue (k) Student alleges other issues as discovered once a full records review occurs. This issue is wholly insufficient as plead, as any additional issues must be raised in either an amended complaint or an additional complaint.

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).[1]

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[1] The filing of an amended complaint will restart the applicable timelines for a due process hearing.

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.

DATE: January 2, 2019

DocuSigned by:
Tiffany Gilmartin
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TIFFANY GILMARTIN
Administrative Law Judge
Office of Administrative Hearings