BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

STANDARD SCHOOL DISTRICT.

OAH CASE NUMBER 2023040027

ORDER DETERMINING COMPLAINT IS SUFFICIENT IN PART

APRIL 18, 2023

On April 3, 2023, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Standard School District. On April 14, 2023, Standard 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; *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 alleges three issues in the complaint, some of which are sufficient and some which are insufficient. Standard claims the complaint is replete with allegations and conclusory statements that are wholly inadequate to support a request for due process because they lack the requisite specificity: dates, specific facts, and or a description of the circumstances under which the alleged facts occurred. Standard contends that the complaint is confusing because it refers to alleged events that took place well before the statute of limitations. Standard complains that Student has made clear her intention of waiting until hearing before providing facts that would support a piercing of the statute of limitations.

Student's issue A alleges from at least March 2021 to August 2021 Standard denied Student a free appropriate public education, called FAPE, by failing to comprehensively, appropriately, and timely assess her in all areas of suspected disability and educational need. Issue B alleges a denial of FAPE from at least March 2021 to August 2021 based on Standard's failure to develop or implement an individualized educational program. Student's issues A and B allege sufficient facts to permit Standard to respond, participate in a resolution session and mediation for the time period from April 3, 2021, two years from the date the complaint was filed, to August 2021.

Student's issue C alleges a denial of FAPE based on violating Parent's right to meaningfully participate in the educational decision-making process. Under issue C, Student raises three sub issues: (1) predetermination or unwillingness to consider alternative; (2) failing to provide prior written notice of its refusal to consider a change in Student's related services; and (3) failure to produce a complete copy of Student's educational record. Student's issue C (3) is sufficient, and Standard does not challenge

the sufficiency of this claim. Student's sub issues C(1), and C(2) do not provide sufficient facts about the problem. It is unclear when these allegations occurred and whether Student alleges these claims arose before the two-year statutory period.

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).) There are limited exceptions to the general statute of limitations. For example, when parent was prevented from filing a request for due process due to specific misrepresentations by the local education agency that it had resolved the problem forming the basis of the complaint, or that the local education agency withheld information from the parent that it was required to provide. (Ed. Code § 56505, subd. (l), tit. 20 U.S.C. section 1415(f)(3)(D).) Additionally, as permitted under federal law, California has adopted its own discovery rule. California's law states that a claim accrues for purposes of the statute of limitations when a parent learns of the underlying facts that form a basis for the action. (Ed. Code, § 56505, subd. (l).)

In issues A, B, and C of Student's complaint, insofar as they relate to claims before April 3, 2021, Student provides no facts, assertions, or argument regarding the basis upon which the statute of limitations should be extended. This prevents Standard from knowing how to respond to Student's complaint, participate in a resolution session and mediation.

ORDER

1. Issues A and B of Student's complaint are sufficient for the time period between under April 3, 2021 and August 2021, and Issue C(3) is sufficient under title 20 U.S.C. section 1415(b)(7)(A)(ii).
2. Issues A and B of Student's complaint are insufficiently pled for allegations before April 3, 2021, and issue C(1) and C(2) are insufficiently pled under title 20 United States Code section 1415(c)(2)(D).

3. Student will be permitted to file an amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II).
4. 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. The filing of an amended complaint will restart the applicable timelines for a due process hearing.
5. If Student fails to file a timely amended complaint, the hearing will proceed only on Issues A and B with claims beginning on April 3, 2021, and Issue C(3), in Student's complaint.

IT IS SO ORDERED.

Marlo Nisperos

Marlo Nisperos
Administrative Law Judge
Office of Administrative Hearings