BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

NEWHALL SCHOOL DISTRICT.

OAH CASE NUMBER 2023110708

ORDER DETERMINING DUE PROCESS COMPLAINT INSUFFICIENT

DECEMBER 8, 2023

On November 22, 2023, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Newhall School District as respondent. On December 7, 2023, Newhall filed a Notice of Insufficiency as to the complaint.

APPLICABLE LAW

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.)

COMPLAINT INSUFFICIENT

Student's complaint does not assert any specified claims. After 12 and a half pages of narrative regarding Student's educational history, there is a paragraph entitled "Appropriate and Individualized Educational Program." Following that heading is a statement asserting:

> "At all times relevant to the filing to this complaint the Respondents knew or should have known that in order to be provided with an appropriate educational program that met her unique needs and would have allowed her to derive

education benefit, Student required a program that was individualized to her unique academic needs and which was designed to allow her to make academic progress."

Student has failed to identify any violations of the Individuals with Disabilities Education Act, or when those violations are alleged to have occurred. Newhall should not be required to comb through more than 12 pages of statements of facts and law to guess which are the subject of Student's complaint.

Student has not met the requirement of stating a description of a problem relating to the proposed, or refused, initiation or change, to the identification, evaluation or educational placement of the student, or of provision of student's free, appropriate public education. While proposed resolutions are stated, it is unclear what the suggested resolutions are being proposed to resolve.

As written, Student's complaint fails to give Newhall adequate notice of the claims being asserted against it for Newhall to prepare for resolution session, mediation or hearing. The complaint is insufficient.

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 an amended complaint within 14 days from the date of this order, the complaint will be dismissed.
5. All dates previously set in this matter are vacated.

IT IS SO ORDERED.

Penelope Pahl

Penelope S. Pahl

Administrative Law Judge

Office of Administrative Hearings