BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL ISTRICT, SERANNIA VENUE CHARTER FOR ENRICHED STUDIES, HALE CHARTER ACADEMY, AND IVY ACADEMIA CHARTER SCHOOLS.

OAH CASE NUMBER 2020020373

ORDER OF DETERMINATION OF INSUFFICIENCY OF DUE PROCESS COMPLAINT AS TO IVY ACADEMIA CHARTER SCHOOLS

FEBRUARY 21, 2020

On February 11, 2020, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Los Angeles Unified School District, Serannia Avenue Charter for Enriched Studies, Hale Charter Academy, and Ivy Academia Charter Schools. On February 20, 2020, Ivy Academia 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).

The complaint is deemed sufficient unless a party notifies OAH and the other party in writing within 15 days of receiving the complaint that the party believes the complaint has not met the notice requirements. (20 U.S.C. § 1415(c)(2)(C); Ed. Code, § 56502, subd. (d)(1).)

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

Ivy Academia timely filed its Notice of Insufficiency within 15 days of receiving Student's complaint. Ivy Academia asserts the complaint is insufficient because it fails to specifically identify any allegation against it; fails to provide sufficient facts as to how it denied Student a FAPE; and fails to identify if any alleged violations occurred during Student's period of enrollment at Ivy.

Student's complaint alleges two broad issues with numerous sub-issues, all of which are insufficiently pled as to Ivy Academia. Issue One is entitled "Substantive FAPE Denials." In Issue One, Student generally asserts that "District" denied Student a free appropriate public education, or FAPE, by repeatedly ignoring complaints of bullying and failing to address Student's subsequent anxiety; failing to provide a safe environment; and failing to offer services to address harassment and Student's disability needs. Student fails to identify which respondent or respondents he is referring to when he uses the term "District."

Issue Two is entitled "Procedural Violations." Similarly, Student generally alleges "District" committed numerous procedural violations. These include failing to timely provide an assessment plan; failing to advise Parent of the continuum of placement

options; failing to provide prior written notice when it refused Parent's requests for evaluations, a certified one-to-one aide, and for assistance to keep Student safe; and failing to offer an appropriate individualized education program or IEP with services such as applied behavior analysis based on a functional behavioral assessment, social skills training, and psychological services.

Student's complaint indicates he attended Ivy Academia at the beginning of the 2019-2020 school year until Parent withdrew him sometime in the fall of 2019. During his enrollment, Student alleges he struggled with social and communication skills which made him an easy target for bullying and that he continued to be harassed as in prior years. Student further alleges he needed more intensive behavior services, was only provided an aide who did not have an autism certificate, and fell behind in his classes. These facts do not provide a sufficient description of the asserted problems in terms of Ivy Academia's actions or inactions as it relates to the asserted FAPE denials. As such, the complaint fails to provide Ivy Academia with the required problem description and the facts relating to the problem.

Student's proposed resolutions again are directed to "District" without defining a specific respondent. 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).) The proposed resolutions are not well-defined as they fail to identify which respondent or respondent should be held responsible for each resolution.

ORDER

1. Student's complaint is insufficiently pled as to Ivy Academia 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, Ivy Academia will be dismissed from the complaint, and the complaint will proceed as scheduled as to any remaining respondents.

IT IS SO ORDERED.

DocuSigned by:
Theresa Ravandi
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Theresa Ravandi

Administrative Law Judge

Office of Administrative Hearings