BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

SAN DIEGUITO UNION HIGH SCHOOL DISTRICT, DEL MAR UNION SCHOOL DISTRICT, NORTH COASTAL CONSORTIUM FOR SPECIAL EDUCATION, AND POWAY UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2020050243

ORDER DETERMINING COMPLAINT INSUFFICIENTLY PLED AS TO SAN DIEGUITO, AND NOTICE OF NO ACTION ON SAN DIEGUITO'S MOTION TO DISMISS

MAY 21, 2020

On May 5, 2020, Parents on behalf of Student filed a due process hearing request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming San Dieguito Union High School District, Del Mar Union School District, North Coastal Consortium for Special Education, and Poway Unified School District. On

May 20, 2020, San Dieguito filed a combined motion to dismiss and notice of insufficiency.

A motion to dismiss and a notice of insufficiency are two distinct and separate motions, with different law and applicable standards, and will not be considered together in the same moving document. As a notice of insufficiency is time-sensitive, this motion will be treated as a notice of insufficiency. No action will be taken on the motion to dismiss. If and to the extent San Dieguito seeks to move to dismiss any portion of Student's complaint after this ruling on its notice of insufficiency, San Dieguito may file a separate motion to dismiss.

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's complaint fails to provide San Dieguito with the required problem description and the facts relating to the problem. Other than a couple of conclusory sentences that San Dieguito is one of four alleged districts of residence, and had a duty under the IDEA to "search and serve," Student alleges no facts whatsoever regarding San Dieguito. Student contends that, over a period of nine years, multiple school districts had a duty to identify Student as a student requiring special education while he was in public school and after he was placed by Parents in various private or nonpublic schools. However, Student's complaint alleges no specific facts about what San Dieguito should have known, when it should have known it, or how San Dieguito acted or failed to act on that knowledge in violation of the Individuals with Disabilities Education Act, or IDEA.

Student's complaint does not state sufficient facts to support a claim against San Dieguito. The complaint fails to put San Dieguito on notice as to the basis of Student's claim, and the claim against San Dieguito is insufficient.

ORDER

1. Student's complaint is insufficiently pled under section title 20 United States Code 1415(c)(2)(D), as to San Dieguito.
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. 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 complaint will be dismissed as to San Dieguito.
6. All dates currently set in this matter are confirmed as to the other named educational agencies.

DocuSigned by:
Alexa Hohensee
A7D463FF094544B...

Alexa Hohensee

Administrative Law Judge

Office of Administrative Hearings