BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

CLAREMONT UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2024091059

ORDER DETERMINING DUE PROCESS COMPLAINT INSUFFICIENT

OCTOBER 8, 2024

On September 27, 2024, Parent on behalf of Student filed a due process hearing request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Claremont Unified School District, called Claremont. On October 7, 2024, Claremont filed a notice of insufficiency as to the complaint.

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.)

Student's complaint alleges two insufficiently pled claims. Issue 1 fails to allege specific facts to put Claremont on notice of the nature of the problem. Issue 1 generally alleges Claremont refused to acknowledge a custody order, failed to make Student's

school homework available online or through books, and refused to answer legal questions about the basis for a truancy determination. Issue 1 does not reference any specific individualized education program, called IEP, or any specific acts or failures to act sufficient to provide Claremont an awareness and understanding of the issues to know how to prepare for a resolution session, mediation, and due process hearing.

Issue 2 generally alleges a June 6, 2024, IEP was pre-typed and failed to address Student's decline in grades. Issue 2 also alleges that a representative from Claremont advised Parent that if he refused to sign the IEP, Claremont would exit Student from special education. The complaint does not contain facts alleging Claremont sought to exit Student from special education or other facts regarding changes to Student's identification, evaluation, or educational placement. As drafted, Issue 2 fails to allege sufficient facts to give Claremont an awareness and understanding of the issues. Accordingly, the complaint is insufficiently pled.

A parent without an attorney may request that OAH provide a mediator to assist the parent in identifying the issues and proposed resolutions that must be included in a complaint. (Ed. Code, § 56505.) Parents are encouraged to contact OAH for assistance if they intend to amend their due process hearing request.

ORDER

1. Student's complaint is insufficiently pled under title 20 United States Code section 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 United States Code 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.

Jennifer Kelly

Jennifer Kelly
Administrative Law Judge
Office of Administrative Hearings