BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

ADELANTO ELEMENTARY SCHOOL DISTRICT AND

SAN BERNARDINO COUNTY SUPERINTENDENT OF SCHOOLS.

OAH CASE NUMBER 2024080915

ORDER DETERMINING DUE PROCESS COMPLAINT INSUFFICIENT AGAINST SAN BERNARDINO COUNTY SUPERINTENDENT OF SCHOOLS

SEPTEMBER 9, 2024

On August 23, 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 Adelanto Elementary School District and San Bernardino County Superintendent of Schools. On September 6, 2024, San Bernardino County filed a timely 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, referred to as FAPE;
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 raises numerous claims, each insufficiently pled against San Bernardino County. The complaint refers to Adelanto Elementary as District and San Bernardino County as County. Each of the issues listed in the complaint refers only to District, or Adelanto Elementary, and not County, or San Bernadino County.

Beyond naming San Bernardino County as a respondent and stating that Student attended programs run by San Bernardino County, Student's complaint fails to describe any problem relating to San Bernardino County's alleged violations involving the proposed change regarding Student's identification, evaluation, or educational placement, or providing Student a FAPE. The complaint's failure to describe when and how San Bernardino County denied Student a FAPE, fails to provide San Bernardino with an awareness and understanding of the issues forming the basis of the complaint against it, to enable San Bernardino County to prepare for the hearing and to participate in a resolution session and mediation. Accordingly, Student's complaint is insufficient against San Bernardino County.

ORDER

1. Student's complaint is insufficiently pled against San Bernardino County Superintendent of Schools 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, San Bernardino County Superintendent of Schools shall be dismissed as a party in this matter, and the matter will proceed against Adelanto Elementary School District only.

IT IS SO ORDERED.

Rommel P. Cruz

Rommel P. Cruz

Administrative Law Judge

Office of Administrative Hearings