BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

LOS ALAMITOS UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2023080865

ORDER DETERMINING DUE PROCESS COMPLAINT SUFFICIENT

SEPTEMBER 7, 2023

On August 25, 2023, Parents on behalf Student filed a due process hearing, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Los Alamitos Unified School District. On September 6, 2023, Alamitos filed a notice of insufficiency and requested dismissal of this action.

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 considering 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

Los Alamitos argues that Student's complaint is insufficient because it fails to include a description of the nature of Student's problem relating to the provision of a free appropriate public education, called FAPE, to Student. Specifically, Los Alamitos maintains that Student is not entitled to receive a FAPE because Student is privately placed and not enrolled or attending Los Alamitos and thus, not entitled to extended school year services as stay put.

Student sole issue in the complaint is: "Whether District has denied Student FAPE by refusing to implement the last agreed upon offer of ESY from an Amendment IEP dated 6/8/2022 as "stay put"." Student acknowledges in the complaint that the dispute is the parties' different opinions regarding Los Alamitos' FAPE responsible to Student as it relates to extended school year services as stay put. However, Los Alamitos seeks a ruling on the merits as to the sole issue in this matter, which is not the purpose of a notice of insufficiency.

Here, the complaint is sufficient. It sets forth the issue and supporting facts to allow Los Alamitos to prepare for a resolution session, mediation, due process hearing, and to defend itself in this matter.

ORDER

1. The complaint is sufficient under title 20 United States Code section 1415(b)(7)(A)(ii).

2. All mediation, prehearing conference, and hearing dates in this matter are confirmed.

Cynthia Fritz

Cynthia Fritz

Administrative Law Judge

Office of Administrative Hearings