BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

SAN JUAN UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2022080873

ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

OCTOBER 04, 2022

On August 26, 2022, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming San Juan Unified School District. On September 29, 2022, San Juan Unified filed a Notice of Insufficiency as to the complaint.

PROCEDURAL BACKGROUND

On August 29, 2022, Student filed an Amended Complaint with OAH and served San Juan Unified with the amended complaint via facsimile. On August 31, 2022, San Juan Unified's general counsel filed a Notice of Representation for San Juan Unified.

On September 6, 2022, Student filed a motion to amend the complaint. That motion was denied on September 11, 2022, because Student had not served the motion and amendment on San Juan Unified's general counsel. On September 13, 2022, San Juan Unified filed a Notice of Insufficiency as to the Amended Complaint. On the same day, OAH denied the Notice of Insufficiency on the grounds that the original complaint was the operative complaint. The order was without prejudice to San Juan Unified filing a motion to reset the dates when the original complaint was served.

On September 20, 2022, San Juan Unified filed a Motion to Dismiss the matter on grounds Student had not served the original complaint on San Juan Unified. The motion was supported by a sworn declaration from San Juan Unified's general counsel that San Juan Unified had never received a full copy of the original complaint despite repeated requests to Student's counsel. Student filed an opposition with supporting declaration, stating Student had served the original complaint by facsimile on August 26, 2022. However, Student did not submit verification that San Juan Unified received the facsimile. As part of its opposition, Student indicated Student's attorney had emailed a copy of the original complaint to San Juan Unified's attorney on September 22, 2022.

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).)

On September 29, 2022, San Juan Unified filed a second Notice of Insufficiency directed to the original complaint. In its Notice, San Juan Unified conceded that it had finally received a full copy of the complaint on September 22, 2022. On September 30, 2022 OAH issued an Order vacating all dates and rescheduling the case effective

September 22, 2022. As such San Juan's Notice of Insufficiency to the original complaint is timely.

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

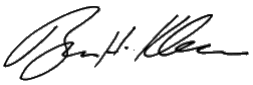
San Juan argues that Student's complaint consists of vague, confusing, conclusory, and repetitive allegations that do not reference specific information about how Student was denied a free appropriate public education, referred to as a FAPE. San Juan argues that it has no idea what the "real issues" will be at the due process hearing or the time-specific period. For example, San Juan notes that the complaint includes references to periods before Student enrolled in the district. Also, many facts appear misplaced regarding events occurring in March 2020 and July 2020, before Student's enrollment with San Juan. Specific references also appear to apply to another student and another case.

Although there may be some ambiguity and lack of clarity in the complaint as drafted, the facts alleged in Student's complaint are sufficient. Student identifies the issues in the complaint and states adequate facts about the problem to permit San Juan to respond and participate in a resolution session and mediation. The fact San Juan can discern areas that are not relevant to Student's claims demonstrates that the complaint has been sufficiently pled consistent with the requirements of 20 U.S.C § 1415(b)(7)(A)(ii)(III) & (IV).

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.

IT IS SO ORDERED.



Brian H. Krikorian

Administrative Law Judge

Office of Administrative Hearings