BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

FORTUNE SCHOOL OF EDUCATION.

OAH CASE NUMBER 2024030727

ORDER DETERMINING DUE PROCESS COMPLAINT SUFFICIENT

JUNE 17, 2024

On March 20, 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 Fortune School of Education, a charter school, as respondent. On May 30, 2024, Student's motion to amend the complaint was granted. On June 13, 2024, Fortune filed a Notice of Insufficiency as to the complaint with an unsigned proof of service. Signed proof of service was filed June 14, 2024, thus the Notice of Insufficiency is deemed filed on June 14, 2024, which is still 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).

Minimal pleading standards apply to requests for due process pursuant to the Individuals with Disabilities Education Act. (Schaffer ex rel. Schaffer v. Weast, (2005) 546 U.S. 49, 54 [126 S.Ct. 528, 163 L.Ed.2d 387].) 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 Individuals with Disabilities Education Act, or 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.] 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 46541, 46699.)

COMPLAINT SUFFICIENCY

Fortune asserts that Student's complaint is insufficient as to all claims predating May 31, 2022 "because the allegations are barred by the statute of limitations and the complaint fails to allege facts that would toll the statute of limitations."

DATE OF COMPLAINT FILING

Initially, Fortune misidentifies the applicable filing date of the complaint. The original complaint in this matter was filed on March 20, 2024. The amended complaint relates back to the original filing date of the complaint. While this doctrine is not specifically stated in special education laws, OAH routinely analogizes to civil procedure laws when evaluating issues of procedure not specifically stated. Both California and federal courts recognize that an amended pleading relates back to the date of the original pleading when the amendment asserts claims or defenses that arose out of the conduct, transaction or occurrence set in the original pleading. (Fed. R. Civ. P. 15(c)(1)(B); Norgart v. Upjohn Co. (1999) 21 Cal.4th 383, 408–409, 87 Cal.Rptr.2d 453, 981 P.2d 79. ["The relation-back doctrine requires that the amended complaint must (1) rest on the same general set of facts, (2) involve the same injury, and (3) refer to the same instrumentality, as the original one."].) This doctrine is liberally applied. (*ASARCO LLC. V. Union. Pacific Railroad Co. (9th Cir. 2014) 765 F. 3d 999, 1004.)*

Student's complaint acknowledges a prior settlement agreement limiting claims to those filed after March 10, 2022. Although Fortune asserts claims are barred between March 10, 2022 and May 31, 2022, Fortune offers no legal authority supporting

that conclusion. At most, claims asserted that might involve an extension of the statute of limitations involve those stated between March 11, 2022, and March 19, 2022.

ADEQUATE FACTS PLED

Fortune asserts that Student has failed to allege adequate facts to support extending the statute of limitations. Fortune contends that, in order for Student's complaint to be sufficient, Student must have asserted the facts that would support a claims that they were not aware of the underlying facts that supported a claim within the statute of limitations; and any facts supporting an exception to the statute of limitations.

Student's First Amended Due Process Hearing Request, also called a complaint, Issue 1, alleges claims "during the 2021-2022 school year" limited by a footnote which acknowledges the prior settlement agreement date March 10, 2022. The question of whether claims predating March 20, 2022 are barred by the statute of limitations involve resolution of questions of fact. Fortune has failed to cite to any persuasive authority that requires Student to plead all facts that give rise to an exception to the two-year statute of limitations, or facts demonstrating a right to extend the statute of limitations.

Fortune is on notice that Student is asserting claims that go back to March 11, 2022. Student will have to prove that California's special education statute of limitations law allows pursuit of those claims at hearing. However, the facts alleged in Student's complaint are sufficient. Student's complaint identifies the issues and adequate facts

about the problem to permit Fortune to respond and participate in a resolution session mediation and hearing.

ORDER

1. The complaint is sufficient under title 20 United States Code section 1415(b)(7)(A)(ii).
2. All prehearing conference, and hearing dates in this matter are confirmed.

IT IS SO ORDERED.

Penelope Pahl

Penelope S. Pahl
Administrative Law Judge
Office of Administrative Hearings