BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

SALINAS UNION HIGH SCHOOL DISTRICT.

OAH CASE NUMBER 2024020619

ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

MARCH 4, 2024

On February 16, 2024, Student filed a request for due process hearing, or complaint, with the Office of Administrative Hearings, referred to as OAH, naming Salinas Union High School District. On March 1, 2024, Salinas Union filed a notice of insufficiency of 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:

- 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;

- includes facts about the problem; and

- 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.)

The facts alleged in Student's complaint are sufficient. Student's complaint identifies the issues and adequate facts about the problem to permit Salinas Union to respond and participate in a resolution session and mediation.

Student's Issue A alleges that Salinas Union failed to adequately assess Student in all known or suspected areas of need. Specifically, Student alleges that Salinas Union did not conduct comprehensive assessments during the 2021-2022 or 2022-2023 school years, including in the areas of psychoeducation and academics. Student alleges that he should have been found eligible under other health impairment due to ongoing medical conditions identified in the complaint. Student further alleges that individualized education programs, or IEPs, developed during the 2021-2022 and 2022-2023 school years failed to provide present levels of performance in math, failed to propose a math goal, and failed to include data in targeted areas of need, including math and attention.

Student identifies the February 18, 2021 and February 17, 2022 annual IEPs as being deficient because of the failure to adequately assess. The mere fact that Student also alleges deficiencies with the 2018 psychoeducational assessment, which appears to be outside the statute of limitations, does not render the complaint insufficient.

In Student's Issue B, sub-issues 1 and 2, he alleges a failure to state accurate present levels of performance and measurable annual goals in his February 17, 2022, October 13, 2022, and October 3, 2023 IEPs. Student also alleges the October 3, 2023 IEP includes present levels of performance that do not address how Student's disability impacts his involvement and progress in the general education curriculum. Student further alleges that baselines for goals in his February 17, 2022, October 13, 2022, and

October 3, 2023 IEPs did not contain accurate data. The facts as alleged point to all goals in the identified IEPs. At the time of the prehearing conference, Student may choose to limit his allegations to only specific goals, or proceed to hearing as to all goals, which may be further identified during the PHC. However, the facts alleged allow Salinas Union to review specific IEPs, the goals within those IEPs, and to respond to the complaint and participate in a resolution session and mediation.

Accordingly, Student's statement of Issues A and B, and their subparts, is sufficient. Student maintains the right to amend his complaint to allege different or additional issues if he deems that necessary.

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. 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.

Cole Dalton

Cole Dalton
Administrative Law Judge
Office of Administrative Hearings