BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

GLENDALE UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2024120283

ORDER DETERMINING DUE PROCESS COMPLAINT PARTIALLY SUFFICIENT

DECEMBER 23, 2024

On December 6, 2024, Parents on behalf of Student filed a due process hearing request, called a complaint, with the Office of Administrative Hearing naming Glendale Unified School District. The Office of Administrative Hearings is called OAH. On December 20, 2024, Glendale Unified filed a timely Notice of Insufficiency as to the complaint's Issues 1 and 2 only.

A party has the right to present a complaint with respect to any matter involving:

- the proposal or refusal to initiate or change the identification, assessment, or educational placement of a child; the provision of a free appropriate public education, called FAPE, to a child;

- the refusal of a parent or guardian to consent to an assessment of a child; or
- a disagreement between a parent or guardian and the public education agency as to the availability of a program appropriate for a child, including the question of financial responsibility.

(20 U.S.C. § 1415(b)(6); Ed. Code, § 56501, subd. (a).) 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 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.)

The statute of limitations for filing of due process requests in California is two years, consistent with federal law. (Ed. Code, § 56505, subd. (l); see also 20 U.S.C. § 1415(f)(3)(C).) An action must be filed within two years from the date a party knew or had reason to know of the facts underlying the action. (Ed. Code, § 56505, subd. (l), see also 20 U.S.C. § 1415(f)(3)(C) (knew or should have known about the alleged action that forms the basis of the complaint).)

The law contains two express exceptions to the two-year statute of limitations. Those exceptions apply in cases where the parent was prevented from filing a complaint because of specific misrepresentations made by the local educational agency that it had resolved the problem forming the basis of the complaint, or because the local educational agency withheld information from the parent that was required to be provided to the parent. (20 U.S.C. § 1415(f)(3)(D)(i) & (ii); Ed. Code, § 56505, subd. (l)(1) and (2).) The Ninth Circuit reaffirmed this rule. (*Avila v. Spokane School Dist. 81* (2017) 852 F.3d 936.) Otherwise, the statute of limitations for due process complaints in California precludes claims that occurred more than two years prior to the date of filing

the request for due process. (Ed. Code, § 56505, subd. (l); 20 U.S.C. § 1415(f)(3)(C); *M.M. v. Lafayette School District* (9th Cir. 2014) 767 F.3d 842, 859.)

Student's complaint raises four issues. Glendale Unified specifically challenges the sufficiency of Issues 1 and 2 of the complaint. The claims in Issue 1 involve the 2021-2022 school year and 2022 extended school year. The claims in Issue 2 involve the 2022-2023 school year and 2023 extended school year.

The complaint contends that from at least the 2021-2022 school year, Glendale Unified failed and refused to timely provide Student with needed assessments, and to timely find him eligible for, and offer appropriate, special education services. In a footnote of the complaint, Student contends Parents did not know or had no reason to know of the basis for Student's claims prior to January 30, 2024.

Glendale Unified contends the complaint fails to describe any facts to support an exception to the two-years statute of limitations. Glendale Unified argues Student's claims that involve alleged violations that occurred prior to December 6, 2022, are barred by the statute of limitations and therefore, should be dismissed.

Student's complaint fails to describe facts to establish an exception to the two-year statute of limitations. The complaint fails to describe facts regarding misinformation or withholding of information by Glendale Unified that prevented Parents from timely filing a due process hearing request when Glendale Unified allegedly refused to initiate assessments or a provision of a FAPE before December 6, 2022. The complaint does not provide facts about how Parents were prevented from filing a request for due process because of specific misrepresentations made by Glendale Unified that it had resolved the problem forming the basis of the complaint, or because Glendale Unified withheld information from Parents that was required to be

provided to Parents. Accordingly, the complaint is insufficient as to Student's claims that are based on alleged violations that occurred prior to December 6, 2022.

ORDER

1. Student's complaint is insufficiently pled under title 20 United States Code section 1415(c)(2)(D) as to any claims prior to December 6, 2022.
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 no later than 14 days from the date of this Order. The filing of an amended complaint will restart the applicable timelines for a due process hearing.
4. If Student fails to file a timely amended complaint, the hearing shall proceed only on Student's claims from December 6, 2022, through December 6, 2024.

IT IS SO ORDERED.

Rommel P. Cruz

Rommel P. Cruz
Administrative Law Judge
Office of Administrative Hearings