BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

SOQUEL UNION ELEMENTARY SCHOOL DISTRICT.

OAH CASE NUMBER 2024040816

ORDER DETERMINING DUE PROCESS COMPLAINT PARTIALLY SUFFICIENT

MAY 7, 2024

On April 22, 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 Soquel Union Elementary School District. On May 3, 2024, Soquel filed a Notice of Insufficiency as to the complaint. Parent is self represented.

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 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.)

DISCUSSION

Student's complaint alleges ten issues, all of which are sufficient except Issue 3. Issues 1, 2, 4, 5, 6, 7, 8, 9 and 10 all describe the problem, include the background facts and proposed resolutions, and provide Soquel with sufficient information to know how to prepare for the hearing and how to participate in resolution sessions and mediation. In Issue 1, Student contends that Soquel did not provide prior written notice to Parents before proposing a change in Student's educational placement in the individualized education program, or IEP, team meeting held on January 22, 2024. In Issue 2, Student contends that the prior written notice was belatedly provided by Soquel on February 5, 2024; and did not contain all the legally required information. In Issue 4, Student contends that the IEP document sent by Soquel following two IEP team meetings in January and February 2024 via e-mail on 8 March 2024 did not contain a clear written offer. In Issues 5 and 6, Student contends that Soquel denied Student a free, appropriate public education, or FAPE, by failing to offer appropriate individual instruction services based on accurate present levels of performance. In Issue 7, Student contends that Soquel's IEP meetings and offers were untimely. In Issue 8, Student contends that Soquel did not offer appropriate goals or services in the area of executive functioning, thereby denying Student a FAPE. In Issue 9, Student contends that Soquel did not offer any service minutes for typing and counseling, thereby denying Student a FAPE. In Issue 10, Student contends that Soquel denied Student a FAPE by failing to offer a spelling goal. All these Issues are explained by ample background facts detailing Student's contentions.

Issue 3, however, is insufficient. It vaguely alleges that Soquel is not acting in Student's "best interest" and is operating out of "hubris." The alleged motivation for

Soquel's actions does not constitute a separate issue. Nor does the issue as stated plead a violation of the IDEA or California state special education law.

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. Issues 1, 2, 4, 5, 6, 7, 8, 9 and 10 are sufficient under title 20 U.S.C. section 1415(b)(7)(A)(ii).
2. Issue 3 is insufficiently pled under title 20 United States Code section 1415(c)(2)(D).
3. Student shall be permitted to file an amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II).
4. The amended complaint shall comply with the requirements of title 20 U.S.C. section 1415(b)(7)(A)(ii), and shall be filed not 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.

5. If Student fails to file a timely amended complaint, the hearing shall proceed only on Issues 1, 2, 4, 5, 6, 7, 8, 9 and 10 in the complaint.

IT IS SO ORDERED.

June Lehrman

June Lehrman

Administrative Law Judge

Office of Administrative Hearings