BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

CAPISTRANO UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2024120081

ORDER DETERMINING DUE PROCESS COMPLAINT INSUFFICIENT

DECEMBER 11, 2024

On December 3, 2024, Parent on behalf of Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings naming Capistrano Unified School District. The Office of Administrative Hearings is called OAH. On December 10, 2024, Capistrano Unified filed a timely Notice of Insufficiency as to 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:

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, called 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) and (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.)

Student's complaint raises three issues, each of which are insufficiently pled. Each of the issues involve the period of June 2024, through December 2, 2024. The complaint states Student continues to be eligible for special education services, which he began receiving in 2014.

Issue 1 of the complaint claims Capistrano Unified failed its child find obligation from June 2024, through December 2, 2024. Child find refers to an affirmative, ongoing duty by a school district to identify, locate, and evaluate all children with disabilities that may need special education and related services. (20 U.S.C. § 1412(a)(3); 34 C.F.R. § 300.111(a).) Child find is a screening process to locate and identify children who may need special education services, which is different from a school district's obligation to assess a child in all areas of suspected disability. (20 U.S.C. § 1414(b)(3)(B); 34 C.F.R. § 300.304(c)(4); Ed. Code, § 56320, subd. (f).)

Here, Student's complaint fails to provide a sufficient description of how Capistrano Unified failed its child find obligation to Student from June 2024, through December 2, 2024, in light of Student having been screened and found eligible for special education services. The complaint lacks enough information to provide Capistrano Unified with an awareness and understanding of the issues forming the basis of Issue 1, and to enable Capistrano Unified to prepare for the hearing and participate in a resolution session. Accordingly, Issue 1 of the complaint is insufficient.

Issue 2 claims Capistrano Unified failed to assess Student all areas of suspected disability. However, Issue 2 is insufficiently pled because the complaint fails to describe how Capistrano Unified failed to assess Student in any area of suspected disability from June 2024, through December 2, 2024. The complaint lacks enough information to provide Capistrano Unified with an awareness and understanding of the issues forming

the basis of Issue 2, and to enable Capistrano Unified to prepare for the hearing and participate in a resolution session. Accordingly, Issue 2 of the complaint is insufficient.

Similarly, Issue 3 is insufficiently pled. The complaint alleges the "current offer," denies Student a FAPE, and describes individualized education program team meetings held in 2020 through 2022, and the FAPE offers resulting from those meetings. However, the complaint fails to identify the "current offer" Student is challenging for the period of June 2024, through December 2, 2024.

The complaint lacks enough information to provide Capistrano Unified with an awareness and understanding of the issues forming the basis of Issue 3, and to enable Capistrano Unified to prepare for the hearing and participate in a resolution session. Accordingly, Issue 3 of the complaint is insufficient.

ORDER

1. Student's complaint is insufficiently pled under section title 20 United States Code section 1415(c)(2)(D).
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.
4. If Student fails to file a timely amended complaint, the complaint will be dismissed.

5. All dates previously set in this matter are vacated.

Rommel P. Cruz

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Administrative Law Judge

Office of Administrative Hearings