BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

LA TIJERA EXCELLENCE CHARTER MIDDLE SCHOOL AND INGLEWOOD UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2022020766

ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

MARCH 1, 2022

On February 16, 2022, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming La Tijera Excellence Charter Middle School and Inglewood Unified School District as respondents. On February 25, 2022, Inglewood Unified School District filed a Notice of Insufficiency as to the complaint.

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; 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.]) Whether the complaint is sufficient is a matter within the sound discretion of the Administrative Law Judge.

DISCUSSION

Student's complaint alleges three insufficiently pled claims. The complaint fails to provide Inglewood with the required facts relating to the problem that would allow it to prepare for a resolution session, mediation or hearing. With respect to Issue Number 1, Student's use of the term "comply" is confusing, as it is unclear whether Student is alleging a failure to implement some or all of the Student's IEP; or is alleging another IDEA violation entirely. Student has also failed to explain what she means by "no triannual IEP." It is unclear if Student is alleging a failure to assess or that an IEP was late and, if so, in what year.

Issue Number 2 similarly fails to provide any specific information regarding the violations of the Individuals with Disabilities in Education or California special education laws. Without facts alleging the services that were not provided or how Student had deteriorated, there is no way to determine whether the claims Student is making fall within OAH jurisdiction. Nor does the allegation regarding Student's class failures explain whether Student is alleging a failure to assess, a failure to implement the IEP, or another violation of state and/or federal law.

Issue Number 3 provides a few more facts. However, there is no allegation of how the facts resulted in a violation of the IDEA or California special education law. Nor is there any allegation of when the actions took place.

The allegations in Student's complaint are insufficiently pled. As currently written, it is not clear how Student claims Inglewood violated the IDEA of California special education laws. A party, has the right to present a complaint regarding matters involving a proposal or refusal to initiate or change the identification, assessment, or educational placement of a child; the provision of a free appropriate public education 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. (Ed. Code, § 56501, subd. (a).) The complaint fails to provide Inglewood with the required description of the problem(s), the dates the problem(s) occurred, and the specific facts relating to the problem(s). OAH only has jurisdiction over claims of violations of the IDEA or claims pursuant to California special education law. (*Wyner v. Manhattan Beach Unified School. Dist.* (9th Cir. 2000) 223 F.3d 1026, 1028-1029.) As Student failed to state sufficient facts supporting this claim, the claim is insufficient.

ORDER

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

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

IT IS SO ORDERED.

Penelope S. Pahl

Penelope S. Pahl

Administrative Law Judge

Office of Administrative Hearings