BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

SAN DIEGUITO UNION HIGH SCHOOL DISTRICT.

OAH CASE NUMBER 2022110515

ORDER DETERMINING COMPLAINT SUFFICIENT AND NOTICE OF NO ACTION ON ALTERNATIVE MOTION TO DISMISS

DECEMBER 5, 2022

On November 17, 2022, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming San Dieguito Union High School District. On December 2, 2022, San Dieguito filed a Notice of Insufficiency as to the complaint, with an alternative motion seeking dismissal.

NOTICE OF INSUFFICIENCY

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 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.)

The facts alleged in Student's complaint are sufficient. Student's complaint identifies the issues and adequate facts about the problem to permit San Dieguito to respond, and to participate in a resolution session, mediation and hearing. Student's single issue complaint sufficiently gives notice that the issue raised is whether San

Dieguito denied Student a FAPE by failing to offer an appropriate placement following the closure of Excelsior non-public school.

NO ACTION ON MOTION TO DISMISS

OAH will take no action on Student's alternative motion to dismiss. OAH requires motions to be filed separately. In this case, particularly, separate filings are critical as a notice of insufficiency triggers a different ruling deadline than a motion to dismiss. Nothing in this order prevents San Dieguito from filing a separate motion to dismiss the case.

1. The complaint is sufficient under title 20 United States Code section 1415(b)(7)(A)(ii).
2. No action will be taken on the alternative motion to dismiss filed with the notice of insufficiency.
3. All mediation, prehearing conference, and hearing dates in this matter are confirmed.

IT IS SO ORDERED.

Penelope S. Pahl

Penelope S. Pahl
Administrative Law Judge
Office of Administrative Hearings