BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

CENTINELA VALLEY UNION HIGH SCHOOL DISTRICT.

OAH CASE NUMBER 2024010756

# ORDER DETERMINING DUE PROCESS COMPLAINT INSUFFICIENT

FEBRUARY 5, 2024

On January 24, 2024, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Centinela Valley Union High School District, called Centinela Valley. On February 2, 2024, Centinela Valley 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 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 IS INSUFFICIENT

Student's complaint alleges nine insufficiently pled claims. Generally, Student fails to specify which individualized education program, called an IEP, or IEPs in which school years failed to offer or provide Student with a free appropriate public education, called a FAPE. As explained below, the complaint fails to provide Centinela Valley with the required problem description and the facts relating to the problem.

With respect to Issue One, Student alleges that Centinela Valley failed to offer an appropriate placement and sufficient services. Student then proceeds to recite what Student believes is relevant legal authority for that claim. However, Student does not provide a single fact to support this claim, such as what IEP or IEPs Student believes offered inappropriate placement or services, or why the placement or services did not meet Student's unique needs. Instead, Student offers a single conclusory statement that Centinela Valley failed to provide sufficient services and denied Student a FAPE.

Notably, Student does not allege the specific time period which Student believes Centinela Valley denied Student a FAPE. Student is 22 years old, and it is unclear how far back Student's allegations stretch. Student alleges that, "Parent has expressed concern that [S]tudent has not been making adequate progress during her entire educational experience." Elsewhere in the complaint, Student notes that "[i]nformation presented outside the statute of limitations is solely for foundational purposes." These two sections create an internal conflict in Student's complaint. As such, it is unclear whether Student is attempting to challenge decisions made about Student's education beyond the two-year statute of limitations. (20 U.S.C. §§ 1415(b)(6) &(f)(3)(C); 34 C.F.R. § 300.507(a); Ed. Code, §§ 56501, subd. (a), 56505, subd. (l).) Student Student's Issue One is insufficiently pled.

Student's complaint contains two issues which are identified as Issue One. Student's Second Issue One broadly alleges that Centinela Valley denied Student a FAPE by failing to offer goals and objectives to meet Student's unique educational needs. Student does not explain what IEP or IEPs Student believes offered inappropriate goals and objectives, or which goals in the areas of language, academics, or social skills Student is challenging.

Again, Student does not allege the time period which Student believes Centinela Valley denied Student a FAPE. As with Student's Issue One, it is unclear whether Student is attempting to challenge decisions made about Student's education beyond the two-year statute of limitations. (20 U.S.C. §§ 1415(b)(6) &(f)(3)(C); 34 C.F.R. § 300.507(a); Ed. Code, §§ 56501, subd. (a), 56505, subd. (l).) Student Student's Second Issue One is insufficiently pled.

With respect to Issue Two, Student broadly alleges that Centinela Valley failed to develop accurate present levels of performance and measurable goals. Student does not allege specific IEPs where these errors arose, or what present levels of performance or goals Student is challenging.

Within Issue Two, Student also alleges that Centinela Valley, "has completely failed to develop an IEP for Student." This is a significantly different allegation from a failure to develop accurate present levels of performance and measurable goals. As such, this internal inconsistency renders this issue impermissibly vague. As with previous issues, Student does not allege a specific time period during which these allegations arose, and it is unclear whether Student is attempting to challenge decisions made about Student's education beyond the two-year statute of limitations. (20 U.S.C. §§ 1415(b)(6) &(f)(3)(C); 34 C.F.R. § 300.507(a); Ed. Code, §§ 56501, subd. (a), 56505, subd. (l).) Student's Issue Two is insufficiently pled.

With respect to Issue Three, Student broadly alleges that Centinela Valley failed to assess Student in all areas of suspected disability, including psychoeducational, functional behavior, physical therapy, assistive technology, augmentative and alternative communication, and social-emotional. Student again fails to include facts explaining how Centinela Valley failed to assess Student. Student does not explain the basis Centinela Valley had for assessing, when those assessments should have occurred, or whether they did occur, and Student believes that the assessments conducted where inadequate. As with previous issues, Student does not allege a specific time period during which these allegations arose, and it is unclear whether Student is attempting to challenge decisions made about Student's education beyond the two-year statute of limitations. (20 U.S.C. §§ 1415(b)(6) &(f)(3)(C); 34 C.F.R. § 300.507(a); Ed. Code, §§ 56501, subd. (a), 56505, subd. (l).) Student's Issue Three is insufficiently pled.

With respect to Issue Four, Student alleges that Centinela Valley predetermined its offers of placement and services, thereby denying Parent meaningful participation in the IEP process. Student fails to include facts explaining how Centinela Valley predetermined its offers of placement and services, or at which IEP team meetings the alleged predetermination occurred. As with previous issues, Student does not allege a specific time period during which these allegations arose, and it is unclear whether Student is attempting to challenge decisions made about Student's education beyond the two-year statute of limitations. (20 U.S.C. §§ 1415(b)(6) &(f)(3)(C); 34 C.F.R. § 300.507(a); Ed. Code, §§ 56501, subd. (a), 56505, subd. (l).) Student's Issue Four is insufficiently pled.

With respect to Issue Five, Student alleges that Centinela Valley failed to implement Student's IEP. However, Student does not allege which IEP or IEPs Student asserts Centinela Valley did not implement, or which portion or portions of those IEPs

were not implemented. As with previous issues, Student does not allege a specific time period during which these allegations arose, and it is unclear whether Student is attempting to challenge decisions made about Student's education beyond the two-year statute of limitations. (20 U.S.C. §§ 1415(b)(6) &(f)(3)(C); 34 C.F.R. § 300.507(a); Ed. Code, §§ 56501, subd. (a), 56505, subd. (l).) Student's Issue Five is insufficiently pled.

With respect to Issue Six, Student broadly alleges that Centinela Valley failed to develop a behavior intervention plan for Student. However, Student does not explain which IEP or IEPs did not contain a behavior intervention plan, or whether Centinela Valley offered a behavior intervention plan, but it was not adequate. As with previous issues, Student does not allege a specific time period during which these allegations arose, and it is unclear whether Student is attempting to challenge decisions made about Student's education beyond the two-year statute of limitations. (20 U.S.C. §§ 1415(b)(6) &(f)(3)(C); 34 C.F.R. § 300.507(a); Ed. Code, §§ 56501, subd. (a), 56505, subd. (l).) Student's Issue Six is insufficiently pled.

With respect to Issue Seven, Student alleges that Centinela Valley failed to provide Student with a classroom environment containing the necessary equipment, amenities, and size to meet Student's unique needs. However, Student fails to explain what Student's physical needs are, what Student's classroom environment provided, and how the classroom environment did or did not meet Student's needs. As with previous issues, Student does not allege a specific time period during which these allegations arose, and it is unclear whether Student is attempting to challenge decisions made about Student's education beyond the two-year statute of limitations. (20 U.S.C. §§ 1415(b)(6) &(f)(3)(C); 34 C.F.R. § 300.507(a); Ed. Code, §§ 56501, subd. (a), 56505, subd. (l).) Student's Issue Seven is insufficiently pled.

With respect to Issue Eight, Student alleges that she is entitled to compensatory education because of the issues raised earlier in the complaint. Student further alleges that she has not made meaningful progress over the previous two years and has regressed academically and behavioral. Student still does not allege sufficient facts explaining the specific areas of academics and behavior Student's did not make progress in, in what specific areas of academics and behavior Student allegedly demonstrated regressions, and which IEPs are at issue. Student's issue also alleges that she is entitled to compensatory education in the areas of occupational therapy, social skills, basic living skills, and speech and language. However, Student provides no facts to support these claims. Student's Issue Eight is insufficiently pled.

All of Student's issues fail to give Centinela Valley adequate notice of the facts of the issues asserted to allow Centinela Valley to prepare for the resolution session, mediation, or hearing. As a result, Student's request for due process 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).
3. 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.
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.

IT IS SO ORDERED.

Ashok Pathi

Ashok Pathi (Feb 5, 2024 15:25 PST)

Ashok Pathi

Administrative Law Judge

Office of Administrative Hearings