BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

ESCONDIDO UNION SCHOOL DISTRICT.

OAH CASE NUMBER 2024040004

ORDER DETERMINING DUE PROCESS COMPLAINT PARTIALLY SUFFICIENT

MAY 29, 2024

On March 29, 2024, Student filed a due process hearing request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Escondido Union School District. On April 12, 2024, Escondido Union filed a notice of insufficiency as to the complaint.

On April 16, 2024, OAH determined that Student's complaint was partially sufficient, with multiple claims determined to be insufficiently pleaded. OAH granted Student leave to file an amended complaint.

On April 25, 2024, Student filed his first amended complaint, alleging eight issues against Escondido Union. On May 8, 2024, Escondido Union filed a notice of

insufficiency only as to Issue 1 of Student's first amended complaint. On May 9, 2024, OAH determined that Student's complaint was partially sufficient, with only one issue determined to be insufficiently pleaded. OAH again granted Student leave to file an amended complaint.

On May 13, 2024, Student filed his second amended complaint, alleging eight issues against Escondido Union. On May 28, 2024, Escondido Union filed a notice of insufficiency only as to Issue 1 of Student's second amended 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;
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 Board of Educ. v. Benton* (S.D.Ala. 2005) 406 F.Supp.2d 1248, 1259-1260; *Sammons v. Polk County School Board* (M.D.Fla., Oct. 28, 2005, 8:04CV2657T24EAJ) 2005 WL 2850076 [nonpub. opn.]; but cf. *M.S.-G v. Lenape Regional High School Dist. Board 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 46540-46541, 46699.)

Student alleges eight claims in his second amended complaint. However, Escondido Union only challenges the sufficiency of Student's Issue 1.

Student's Issue 1 alleges that Escondido Union denied Student a free appropriate public education "in the February 24, 2022" individualized education program, called an IEP, by failing from March 29, 2022, through February 15, 2023, "to properly implement" Student's IEP. Student's Issue 1 can fairly be understood as asserting Escondido Union materially failed to implement Student's February 24, 2022 IEP from March 29, 2022, through February 15, 2023.

However, the second amended complaint Issue 1 fails to state a single fact describing what part of Student's February 24, 2022 IEP was not implemented, or in what way it was not implemented. The second amended complaint contains factual allegations regarding the development of the February 24, 2022 IEP and assertions it

was deficient in specific respects. But there is no description of how, after its development, Escondido Union failed to implement it. Student failed to state sufficient facts supporting Issue 1 to provide Escondido Union sufficient information to know how to prepare for the hearing and how to participate in a resolution session and mediation. Therefore, the claim is insufficient.

ORDER

1. Issues 2, 3, 4, 5, 6, 7, and 8 of Student's second amended complaint are sufficient under title 20 United States Code section 1415(b)(7)(A)(ii).
2. Issue 1 of Student's second amended complaint is insufficiently pleaded under title 20 United States Code section 1415(c)(2)(D).
3. Student shall be permitted to file a third amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II).
4. Any third amended complaint shall comply with the requirements of title 20 United States Code section 1415(b)(7)(A)(ii), and shall be filed not later than 14 days from the date of this order. The filing of a third 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 2, 3, 4, 5, 6, 7, and 8 in Student's second amended complaint.

Kara Hatfield

Kara Hatfield
Administrative Law Judge
Office of Administrative Hearings