BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

ROWLAND UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2022040003

ORDER DETERMINING SUFFICIENCY OF FIRST AMENDED DUE PROCESS COMPLAINT

MAY 11, 2022

On March 30, 2022, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Rowland School District as respondent. Rowland filed a notice of insufficiency on April 11, 2022. Pursuant to an OAH order deeming the complaint insufficient in part, Student filed an amended complaint on April 27, 2022. Rowland filed a notice of insufficiency as to the amended complaint on May 10, 2022.

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).

Minimal pleading standards apply to requests for due process pursuant to the Individuals with Disabilities Education Act. (*Schaffer ex rel. Schaffer v. Weast*, (2005) 546 U.S. 49, 54 [126 S.Ct. 528, 163 L.Ed.2d 387].) All that is required in a due process hearing complaint is a description of the nature of the problem of the child related to the proposed initiation or change to the child's identification, assessment, or educational placement of a child; the provision of a FAPE 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. (20 U.S.C. § 1415(b)(6); Ed. Code, § 56501, subd. (a).)

The due process hearing request must also include facts relating to the problem and a proposed resolution of the problem to the extent known to the party at the time of filing. (Ed. Code §56502(c)(1)(C) and (D); 20 U.S.C. § 1415 (b)(7)(B)(iii).) 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; *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. (*Assistance to States for the Educ. Of Children with Disabilities & Preschool Grants for Children with Disabilities* (Aug. 14, 2006) 71 FR 46540, p. 46699.)

DISCUSSION

Rowland asserts an expansive view of the specific facts necessary for a complaint to be sufficient, citing to a number of past OAH rulings regarding the sufficiency of other requests for due process. Past OAH orders are not precedential. (see, Govt. Code § 11425.60, subd. (a).) Each request for due process is different and must be evaluated based on whether it provides "an awareness and understanding of the issues forming the basis of the complaint." (Sen. Rep. No. 108-185, *supra*, at p. 34.)

Student's complaint specifically asserts that claims are limited to the basic two-year statute of limitations. Accordingly, no claims are alleged prior to March 20, 2020.

Student's amended complaint raises three issues with several sub-issues. Student's Issue 1 states allegations identified as procedural violations. Specifically, Student alleges Rowland failed to identify and assess Student's needs in mental health, literacy, and speech; failed to identify and meet Student's attention, learning, autism,

and social and emotional needs; denied Parent's right to meaningful participation which caused Student a loss of educational benefit; failed to respond to Parent's requests for meetings and calls and consider her observations of Student's academic and emotional regression during distance learning thus denying meaningful participation; failed to advise Parent of a continuum of placements and services; failed to respond to Parent's request for home hospital or independent study; failed to provide Spanish IEP documents; and failed to provide sufficient direct instruction, related services, and ambitious goals to ensure meaningful progress.

Student's amended complaint Issue 2 alleges claims identified as Substantive violations. Student specifically asserts Rowland denied a FAPE when it failed to provide academic and other support as Student was performing below grade level; failed to conduct assessments when Student performed below grade level, regressed in speech, and developed social and emotional disabilities; and failed to offer a program to meet Student's reading, writing, math, speech, and counseling needs that was appropriately ambitious.

Student's Issue 3 alleges a mix of procedural and substantive issues. Specifically, Student alleged Rowland denied him a FAPE when it failed to provide in-person supports and services to maintain his functioning level in speech and programmatic language; and failed to provide services addressing school-related anxiety about communicating with instructors via zoom.

Rowland argues that Student's failure to identify the exact documents that were not translated for Parent results in that claim being insufficient. Rowland offers no legal authority requiring that each untranslated document be identified in Student's request for due process. Student's allegations regarding a failure to translate documents into Parent's native language sufficiently puts Rowland on notice of Student's claim.

Rowland also asserts that claims related to an IEP developed pursuant to the September 26, 2019 IEP are barred because the IDEA does not recognize the doctrine of continuing violations. Rowland asserts "Because there is no IEP identified from the 2019-2020 school year that was developed within the statutory period, the claims raised in Issues 1 and 2 that purport to challenge the appropriateness of Student's IEP from the 2019-2020 school year are not sufficiently pled and must be dismissed." Rowland also asserts that, "… because California law ended distance learning ahead of the 2021-2022 school year, it is unclear how issue 3 can apply to the 2021-2022 school year." These comments go to the substance of the case and not the pleading sufficiency.

Student's amended complaint provides enough information to put the District on notice as to the basis of Student's claims so that the District can participate in resolution and mediation and prepare for hearing. Nothing prevents Rowland from seeking further limitations or clarifications of issues during the Prehearing Conference raising any legal or factual defenses to the claims available to them when the case goes to hearing.

ORDER

1. The complaint is sufficient under title 20 United States Code section 1415(b)(7)(A)(ii).

2. 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