BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

VENTURA COUNTY OFFICE OF EDUCATION AND

RIO ELEMENTARY SCHOOL DISTRICT.

OAH CASE NUMBER 2021030514

ORDER DETERMINING DUE PROCESS COMPLAINT INSUFFICIENT

MARCH 26, 2021

On March 12, 2021, Student filed a Request for Due Process Hearing, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Ventura County Office of Education and Rio Elementary School District. On March 26, 2021, Ventura filed a Notice of Insufficiency as to the 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 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 insufficiently pled because it is unclear which named party, Ventura or Rio, the alleged claims relate to. The complaint is 27 pages, including 18 pages of facts and 5 pages of claims for relief. However, it is vague and confusing.

Throughout the complaint, Student uses "District" to refer to the responding parties but does not identify whether a factual contention or claim relates to Ventura or Rio, or both. Neither Ventura nor Rio can have an awareness or understanding of the issues if the complaint does not clearly allege a problem that relates to them. Without such awareness or understanding, the responding parties do not have sufficient information to know how to prepare for a resolution session, mediation, or due process hearing.

ORDER

1. Student's complaint is insufficiently pled under title 20 United States Code section 1415(c)(2)(D).
2. Student may file an amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II).
3. The amended complaint must comply with the requirements of title 20 United State Code section 1415(b)(7)(A)(ii), and must 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 case are vacated.

Tara Doss

Tara Doss

Administrative Law Judge

Office of Administrative Hearings