BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

SACRAMENTO CITY UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2022080028

ORDER DETERMINING AMENDED DUE PROCESS COMPLAINT INSUFFICIENT AND DENYING MOTION TO DISMISS, AS MOOT

SEPTEMBER 19, 2022

On August 1, 2022, Student filed a Request for Due Process Hearing, referred to as a complaint, with the Office of Administrative Hearings, naming Sacramento City Unified School District. The Office or Administrative Hearings is referred to as OAH.

On August 15, 2022, Sacramento City filed a Notice of Insufficiency of Student's complaint. On August 17, 2022, OAH determined Student's complaint partially insufficient. Specifically, OAH determined Student's Issues One through Nine, Issue 12, Issue 15, and Issue 17 insufficient. OAH granted Student leave to amend the due process complaint within 14 days. On August 31, 2022, Student timely filed Petitioner's

Amended Complaint and Request for Due Process Hearing, called amended complaint. On September 9, Sacramento City filed a Motion to Dismiss Student's previously determined insufficiently plead issues asserting that Student's Amended Complaint was unresponsive to OAH's August 17, 2022 Order. On September 15, 2022, Sacramento City filed a Notice of Insufficiency as to Student's entire amended complaint. On September 15, 2022, Student filed a response to Sacramento City's Motion to dismiss and request for sanctions. On September 16, Sacramento City filed a reply.

INSUFFICIENCY OF 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 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.)

Sacramento City asserts that Student's complaint fails to provide clear issues, supporting facts with respect to those issues, and duplicative issues. Student's complaint alleges 17 insufficiently pled claims. Student's amended complaint fails to provide Sacramento City with the required problem description and the facts relating to the problem. Each of Student's 17 issues expressly incorporate all facts and legal authorities as stated in Student's August 1, 2022 complaint, which became inoperative upon the filing of Student's amended complaint. As these facts were not set forth in the amended complaint itself, the amended complaint is unclear, as it fails to include the alleged facts about the problems.

In addition to Student's failure to state facts pertaining to the problems, Student's issues previously found to be insufficient by OAH order, dated August 17, 2022, are repeated in Student's amended complaint. Although Student attempts to explain and clarify some of the insufficiencies, Student's explanations were confusing and made the issues even more unclear. Such confusing explanations included: Student's discussion and assertion regarding the applicable statute of limitations in this case, as beginning September 3, 2020, when Parent's first learned of Sacrament City's violations; Student's admission that Student was not eligible for special education during the 2019-2020 school year; Student's allegation that Student was entitled to seek

remedies for claims during the 2019-2020 school year based on an exception to the two-year statute of limitations, and lastly, Student's explanation that claims relating to the June 22, 2020 IEP were alleged only because the IEP pertained only to Sacramento City's offer of services for the 2020-2021 school year. Student's failure to change any of Student's issues to provide much needed clarification, made Student's complaint fatally unclear and insufficient. As Student timely filed an amended complaint pursuant to OAH order, dated August 17, 2022, Sacramento City' Motion to Dismiss is denied as moot.

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 a second amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II).
3. The second 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. Specifically, Student's second amended complaint shall:
    a. consist of one document containing a concise statement of each issue including the specific facts relating to each issue;
    b. if an issue is asserting a claim outside the two-year statute of limitations, the Student shall state the basis for extending the two-year statute of limitations, and related supporting facts;
    c. the second amended complaint shall set forth all relevant facts without reference to other documents.

4. If Student fails to file a timely second amended complaint consistent with this order, this matter may be dismissed.

IT IS SO ORDERED.

Rita Defilippis

Rita Defilippis
Administrative Law Judge
Office of Administrative Hearings