BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

IRVINE UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2024100200

ORDER DETERMINING DUE PROCESS COMPLAINT PARTIALLY INSUFFICIENT

OCTOBER 10, 2024

On October 2, 2024, Parent, on behalf of Student, filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, called OAH, naming Irvine Unified School District as respondent. On October 7, 2024, Irvine 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 Individuals with Disabilities Education Act, or 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.)

Student alleges a single claim that she was denied FAPE in her complaint which states:

> The district denied Norah an individualized and appropriate educational program in the least restrictive environment appropriate to meet her needs at all times between June 28, 2023 and January 15, 2024, thereby denying her FAPE.

While Student generally alleges facts in her complaint, which are partly quoted in Irvine's Notice of Insufficiency, Student fails to specify which aspects of the IEP offer denied her FAPE. The facts pled included a number of aspects of Student's educational history that include recent assessments and learning challenges, her lack of progress at the offered district placement, and the similarity of subsequent IEP offers to the last one Student describes as unsuccessful, including the IEP offer for the 2023-2024 school year. It does not, however, specify which of these constituted the alleged denial of an IEP program that met Student's needs in the least restrictive environment.

Student's Issue number one is insufficiently pled. Irvine is unable to prepare for resolution session, mediation or hearing without specific information as to the elements of the IEP that are being contested.

Student's issues number two and three assert claims related to violation of the Americans with Disabilities Act (42 U.S.C. § 12131 *et seq*), and Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794(a)(2), respectively. Irvine did not raise sufficiency claims pertaining to these issues.

ORDER

1. Student's issue number one 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 an amended complaint within 14 days of the date of this order, the complaint will proceed on the remaining two issues on the dates currently scheduled.

IT IS SO ORDERED.

Penelope Pahl

Penelope S. Pahl
Administrative Law Judge
Office of Administrative Hearings