BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

DOWNEY UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2025010823

ORDER DETERMINING DUE PROCESS COMPLAINT SUFFICIENT

FEBRUARY 7, 2025

On January 23, 2025, Parents on behalf of Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Downey Unified School District. OAH deemed Student's complaint contained expedited and non-expedited issues for hearing. On February 6, 2025, Downey 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). The complaint is deemed sufficient unless a party notifies OAH and the other party in writing within 15 days of receiving the complaint that the party believes the complaint has not met the notice requirements. (20 U.S.C. § 1415(c)(2)(C); Ed. Code, § 56502, subd. (d)(1).)

Title 20 United States Code section 1415(k)(3) permits a party to request an expedited hearing for specific reasons. Specifically, an expedited hearing can be requested to appeal to appeal a disciplinary change of placement, such as placement in an alternative education setting or a manifestation determination regarding student conduct. This section requires an expedited hearing start within 20 school days from the hearing request. There is no provision for expedited hearings under section 1415(k) to test the complaint's sufficiency. Indeed, there is insufficient time to address a challenge to the sufficiency of issues subject to an expedited hearing. Thus, an expedited issue cannot accommodate challenges to the sufficiency of the pleading afforded to non-expedited due process hearing issues.

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.)

DISCUSSION

Downey timely filed a Notice of Insufficiency within 15 days of receiving Student's complaint. Downey asserts Student's complaint is insufficient because it raises general violations without sufficient supporting information. Downey contends the complaint is insufficient because it fails to include the time period at issue and the dates and specifics of the alleged suspension, instances of bullying, or Downey's alleged provision of therapy to Student without Parent consent.

Student identified three problems or complaints on the OAH complaint form. Problem or Complaint Number 1 states, "Refusing to allow our son to attend school until he is interrogated without the presence of a parent by staff for a student threat assessment." Number Two states, "Child find – no referrals for assessments even though his mother has set positive reinforcement practices between the teacher and her."

Number 3 states, "Ignoring our requests for one SARB family meeting to address all our family issues instead on 4 same day meetings at 3 different sites."

On attached pages, Student provides additional supporting information and separately lists four violations, two of which are duplicative of Issues 1 and 2. For clarity, these additional violations will be consecutively numbered. Student's Issue Number 4 alleges, "Failure to Provide FAPE: The school's refusal to assess [Student] denies him access to potentially necessary supports and services." Issue Number 5 states, "Unlawful Disciplinary Action: The proposed suspension and threat assessment lack a factual basis and violate due process." Issue Number 6 states, "Failure to Protect and Support: the school failed to protect [Student] from bullying and address incidents impacting his well-being." Lastly, Issue Number 7 states, "Violation of Parental Rights: Emergency therapy was administered without our consent."

OAH determined Student's complaint raises a claim under 20 U.S.C. 1415(k)(3) and is entitled to an expedited hearing. Specifically, Student's Issues 1 and 5 raise expedited claims. Accordingly, Issues 1 and 5 are subject to an expedited due process hearing, and these issues are exempt from the determination of sufficiency process as explained above.

The non-expedited issues in Student's complaint, namely, Issues 2, 3, 4, 6 and 7, are sufficiently pled. Student's complaint does not allege the specific time period at issue. However, it also does not allege grounds for tolling the statute of limitations. The statute of limitations in California is two years, consistent with federal law. (Ed. Code, § 56505, subd. (l); see also 20 U.S.C. § 1415(f)(3)(C).) As such, Student's claims are subject to the two-year statutory period. Further, the administrative law judge will clarify Student's issues, including the time fame, at the prehearing conference.

Student has sufficiently alleged that Downey violated its child find duty to assess Student for special education eligibility, failed to appropriately address bullying, and provided counseling services without Parent consent. Regardless of whether OAH has jurisdiction over Student's allegation regarding Student Attendance Review Board meetings, this claim is sufficiently pled. Nothing in this Order prevents Downey from filing a motion to dismiss this or any other claim it believes is outside of OAH's jurisdiction.

Student's complaint alleges sufficient facts to provide Downey an awareness and understanding of the issues forming the basis of the complaint, and to enable Downey to participate in participate in a resolution session and prepare for the hearing.

ORDER

1. Downey's Notice of Insufficiency as to any expedited claims is denied. Specifically, Downey's challenge to Issues 1 and 5 is denied because these have been deemed expedited issues.
2. Issues 2, 3, 4, 6 and 7, Student's non-expedited issues, are sufficiently pled under Title 20 of the United States Code, Section 1415(b)(7)(A)(ii).

3. All expedited and non-expedited dates previously set in this matter remain as scheduled.

IT IS SO ORDERED.

Theresa Ravandi

Theresa Ravandi

Administrative Law Judge

Office of Administrative Hearings