BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

ALPINE UNION SCHOOL DISTRICT.

OAH CASE NUMBER 2023060498

ORDER DETERMINING AMENDED DUE PROCESS COMPLAINT IS SUFFICIENT

JULY 27, 2023

On June 14, 2023, Parent on behalf of Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Alpine Union School District. On June 29, 2023, Alpine filed a Notice of Insufficiency as to the complaint. On June 30, 2023, OAH determined the complaint was insufficient in part and permitted Student to file an amended complaint within 14 days. On July 14, 2023, Student timely filed an amended complaint. On July 21, 2023, Alpine filed a notice of insufficiency as to the amended 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 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

The facts alleged in Student's amended complaint are sufficient. Student's amended complaint identifies the issues and adequate facts about the problem to permit Alpine to respond and participate in a resolution session and mediation.

Alpine contends the amended complaint is insufficient because it fails to allege facts that describe the nature of the problem related to a free appropriate public education regarding extended school years 2021 and 2022; it is vague and confusing and fails to articulate the nature of the problem, and fails to allege any facts that would toll the statute of limitations. Student's complaint sufficiently describes Parent's concerns related to services, supports, and placement during extended school year 2021 and 2022, and Alpine's failure to hold an IEP team meeting to address Parent's concerns. Additionally, Student's complaint does not allege claims beyond the statute of limitations, beginning June 14, 2021, two years before the original complaint was filed. The facts in the amended complaint clarify Student's allegations related to extended school year 2021 as alleged in Student's initial complaint. OAH's June 30, 2023 Order allowed Student to plead additional facts to support the claims related to extended school year 2021. Therefore, Student's statement of the three issues is sufficient.

ORDER

1. The complaint is sufficient under title 20 United States Code section 1415(b)(7)(A)(ii).
2. All prehearing conference, and hearing dates in this matter are confirmed.

IT IS SO ORDERED.

Marlo Nisperos

Marlo Nisperos

Administrative Law Judge

Office of Administrative Hearings