BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

OAKDALE JOINT UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2024050414

ORDER DETERMINING DUE PROCESS COMPLAINT INSUFFICIENT

MAY 23, 2024

On May 8, 2024, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Oakdale Joint Unified School District as respondent. On May 22, 2024, Oakdale filed a Notice of Insufficiency as to the complaint and asked that the complaint be dismissed.

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.)

DISCUSSION

Student's complaint alleges three insufficiently pled claims. Problem Number 1 asserts a verbal agreement with a school district representative. If Parents are alleging their claims against Oakdale Joint Unified School District, Oakdale should be named as the school district in each problem statement. Additionally, Problem Number 1 fails to name the school district representative with whom the agreement was made, or identify the date of the agreement. It alleges that the agreement was made in exchange for signing "documents" but fails to identify the documents Parents signed to secure the agreement. Dates and details are needed for Oakdale to be able to prepare for resolution session, mediation, and hearing. As written Problem Number 1 is insufficient.

Problem Number 2 alleges that "school district" failed to notify Parents and made changes to "IEP" without Parents' acknowledgment, and changed Student's placement. Problem Number 2 fails to name the school district, fails to identify the date of the IEP that Parents allege was changed, fails to state the date on which Parents allege the IEP was changed and how it was changed. The problem statement uses the word "changes" indicating more than just placement was changed. Oakland is entitled to notice of what Parents are alleging was changed, the details of the changes, and when the changes were made. As written Problem Number 2 is insufficient.

Problem Number 3 alleges, "school district has continued not to follow the IEP plan agreement. My son was supposed to receive an aide on the bus." This statement fails to identify the name of the school district, the date of the IEP that was not followed, and the specific elements of the IEP that the school district continued not to follow. Parents allege that Oakdale continued to fail to follow the IEP which implies more than one aspect of the IEP was not followed. If the failure to provide a bus aide is the only element of the IEP not followed, Parents can allege that. However, the date of the IEP

not followed; the dates during which a bus aide was not provided, for instance, the school year(s), or months, or "from DATE to DATE"; and the name of the school district are required. As written Problem Number 3 is insufficient.

MEDIATOR ASSISTANCE AVAILABLE FOR NON-REPRESENTED PARENTS

A parent without an attorney may request that OAH provide a mediator to assist the parent in identifying the issues and proposed resolutions that must be included in a complaint. (Ed. Code, § 56505.) Parents are encouraged to contact OAH for assistance if they intend to amend their due process hearing request.

ORDER

1. Student's complaint is insufficiently pled under the Individuals with Disabilities Education Act, title 20 United States Code 1415(c)(2)(D).
2. Oakdale's request to dismiss the complaint is denied. 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).
4. The amended complaint must be filed no later than 14 days from the date of

this order.

5. If Student fails to file an amended complaint within 14 days, the complaint will be dismissed.
6. All dates previously scheduled in this matter are vacated.

IT IS SO ORDERED.

Penelope Pahl

Penelope S. Pahl

Administrative Law Judge

Office of Administrative Hearings