BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

ALISAL UNION SCHOOL DISTRICT.

OAH CASE NUMBER 2022100011

ORDER DETERMINING FIRST AMENDED COMPLAINT INSUFFICIENT

NOVEMBER 14, 2022

On September 30, 2022, Student filed a due process hearing request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Alisal Union School District, called Alisal Union. On October 14, 2022, Alisal Union filed a notice of insufficiency as to the complaint. On October 18, 2022, OAH found Student's complaint insufficient in its entirety.

On October 26, 2022, Student filed a first amended complaint and Alisal Union timely filed a notice of insufficiency as to the first amended complaint on November 9, 2022.

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 considering 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.)

On October 26, 2022, Student's inexplicably filed a motion for leave to amend the complaint, although Student was ordered to file it on October 18, 2022, or face dismissal. Student also filed a first amended complaint with five issues, although the issues are incorrectly numbered one, two, three, four, and six without an issue five. Student failed to resolve many of the problems associated with Student's complaint in Student's first amended complaint. Thus, Student's first amended complaint is insufficient on same and similar grounds.

Student's issue one is vaguely titled "Substantive FAPE Violation" rather than clearly stating any claim. It has numerous allegations buried among the text under issue one but fails to clearly delineate what the actual issue is. Because of this, it is vague, confusing, and unclear, and fails to give Alisal Union adequate notice of the claim against it that will enable it to adequately participate in mediation and the due process hearing. Thus, Student's issue one is insufficient.

Student's issue two if vaguely titled "Substantive FAPE violation" rather than clearly stating an issue. It also has numerous allegations buried among the text under issue two but fails to clearly delineate what the actual issue is making it vague and ambiguous. Further, on page two paragraph two of Student's complaint, it states that any reference to events before August 2020 are not an attempt to expand the relevant statute of limitations but are alleged as historical information. However, issue two states that Alisal Union denied Student a free appropriate public education dating back to 2019. Thus, the issue is confusing because Student appears to be attempting to expand the statute of limitations. Yet, Student failed to state any basis or facts for doing this and the wording in this issue contradicts Student's earlier statement about the statute of

limitations. For all these reasons, Student fails to give Alisal Union an awareness, understanding, and adequate notice of the basis of this issue or issues. Thus, Student's issue two is insufficient.

Student's issue three is vaguely titled "Procedural Violation" rather than clearly stating any claim. It appears to have multiple allegations buried among the text under issue three but fails to clearly delineate what the actual issue is, thus making it unclear and ambiguous. This issue also appears to allege violations going back to March 2020 thus expanding the statute of limitations in contradiction to Student's earlier statute of limitations statement. For these reasons, Student's issue three is insufficient and fails to give Alisal Union adequate notice of the claim against it so that it may prepare for mediation, hearing, and present a defense in this matter.

Student's issue four is titled "Procedural Violation" without stating an actual issue, thus, making it unclear. Further, in the subsequent text, it alleges violations going back to 2019. Thus, for the same reasons stated above, it is unclear, confusing, and contradictory to Student's previous statute of limitations statement. It fails to give Alisal Union adequate notice of the span of this issue to allow it to adequately participate in the due process hearing process. Thus, Student's issue four is insufficient.

Student's issue six is equally confusing because the issue is vaguely titled "Procedural Violation" rather than clearly stating any claim. It also appears to have multiple allegations buried among the text under issue six but fails to clearly delineate what the actual issue is, thus making it unclear and not giving Alisal Union adequate notice of the basis of these claims. Thus, Student's issue six is insufficient.

Student insufficiently pled Student's issues one, two, three, four, and six. Student first amended complaint fails to clearly provide Alisal Union with the required problems,

description, and the facts relating to the problems. Unspecified, vague, and ambiguous claims without further description are insufficient to provide an awareness and understanding of the issues forming the basis of the complaint. Additionally, contradictory statute of limitations statements in the first amendment complaint fail to give Alisal Union adequate notice of the timeframe of the issues to allow it to adequately participate in this matter and defend its position.

ORDER

1. Student's complaint is insufficiently pled under section title 20 United States Code 1415(c)(2)(D).
2. Student will be permitted to file an amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II).
3. The amended complaint must comply with the requirements of title 20 U.S.C. section 1415(b)(7)(A)(ii) and must be filed not later than 14 days from the date of this order.
4. If Student fails to file a timely amended complaint, the complaint will be dismissed.
5. All dates previously set in this matter are vacated.

Cynthia Fritz

Cynthia Fritz
Administrative Law Judge
Office of Administrative Hearings