BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

SALINAS UNION HIGH SCHOOL DISTRICT.

OAH CASE NUMBER 2021050872

ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

JULY 02, 2021

On May 27, 2021, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Salinas Union High School District. On June 2, 2021, Student filed a motion for leave to file an amended complaint, along with a proposed first amended complaint. On June 8, 2021, OAH issued an Order granting Student's motion to file an amended complaint. Student's first amended complaint was deemed filed on June 8, 2021. On June 23, 2021, Salinas Union High School District filed a Notice of Insufficiency as to Student's first 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 complaint are sufficient. Salinas Union High School District's Notice of Insufficiency is confusing and lacks persuasive authority. Salinas argues that portions of issue four, regarding allegations that Salinas failed to assess Student and produce Student's records, are insufficient because the complaint fails to allege the time period when these failures occurred. Salinas should assume that these failures occurred within the statute of limitations. The absence of an allegation as to precisely when the failures occurred does not render a portion of issue four insufficiently pled.

Salinas also argues that portions of issue five are insufficient because they may be duplicative of issues one through four. Salinas provides no authority supporting the proposition that issue duplication or overlap renders an issue insufficiently pled. Pleadings are construed liberally. To the extent Student's complaint pleads issues with some duplication or overlap, those issues may be refined and reframed with specificity in Prehearing Conference Statements, and at the Prehearing Conference.

Therefore, Student's pleading of issues four and five in the first amended complaint is sufficient.

ORDER

1. The complaint is sufficient under title 20 United States Code section 1415(b)(7)(A)(ii).

2. All mediation, prehearing conference, and hearing dates in this matter are confirmed.

IT IS SO ORDERED.

Christine Arden

Christine Arden

Administrative Law Judge

Office of Administrative Hearings