BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

PACIFIC COAST ACADEMY.

OAH CASE NUMBER 2023060100

ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT AND DENYING MOTION TO DISMISS

JUNE 12, 2023

On June 2, 2023, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Pacific Coast Academy. On June 12, 2023, Pacific Coast Academy, 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).

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. Student's complaint identifies the issues and adequate facts about the problem to permit Pacific Coast Academy to respond and participate in a resolution session and mediation.

Student's complaint contained one issue alleging whether Pacific Coast Academy denied Student a free appropriate public education during the 2020-2021 school year. Student provided Pacific Grove with sufficient facts to provide an awareness and understanding of the issues. Student alleged Pacific Academy failed to implement Student's individualized education program services during 2021-2020.

Pacific Grove further attempts to argue OAH does not have jurisdiction over this issue exceeds the two-year statute of limitations and no exceptions the statute of limitations was pled. The notice of insufficiency process is not the appropriate mechanism for a motion to dismiss. Pacific Academy's statute of limitations defense is a question of law and fact and cannot be made based on a motion for insufficiency. Accordingly, Pacific Academy's motion to dismiss is denied.

ORDER

1. The complaint is deemed sufficient under title 20 United States Code section 1415(c)(2)(C) and Education Code section 56502, subdivision (d)(1).
2. All mediation, prehearing conference, and hearing dates in this matter are confirmed.
3. Pacific Academy's motion to dismiss is denied.

IT IS SO ORDERED.

Tiffany Gilmartin
Tiffany Gilmartin (Jun 12, 2023 15:58 PDT)

Tiffany Gilmartin

Administrative Law Judge

Office of Administrative Hearings