BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

V.

SAN DIEGUITO UNION HIGH SCHOOL DISTRICT AND
NORTH COASTAL CONSORTIUM FOR SPECIAL EDUCATION.

OAH CASE NUMBER 2020120036

ORDER DETERMINING COMPLAINT INSUFFICIENT AS TO NORTH COASTAL CONSORTIUM AND SUFFICIENT AS TO SAN DIEGUITO UNION HIGH SCHOOL DISTRICT

DECEMBER 11, 2020

On November 24, 2020, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming San Dieguito Union High School District and North Coastal Consortium for Special Education. On December 8, 2020, both San Dieguito and North Costal Consortium separately 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

Student's complaint alleges three issues that are insufficiently pled as to North Coastal Consortium. Student alleges San Dieguito and North Coastal Consortium failed in their child find duties. Student also alleges San Dieguito and North Coastal Consortium failed to properly assess him for special education. Finally, Student argues San Dieguito and North Coastal Consortium denied him a free appropriate public education by failing to find him eligible for special education and develop an individualized education program.

Student alleges North Coastal Consortium had knowledge of his need for special education services because it is the special education local plan area charged with oversight to both San Dieguito and the feeder elementary school Student previously attended. Student also alleges North Coastal Consortium should have supported San Dieguito more in its child find duties. Student claims both San Dieguito and North Coastal Consortium have equal responsibilities to seek and serve Student. However, Student fails to state any facts as to how North Coastal Consortium was the local education agency responsible for Student's education. Although Student alleges North Coastal Consortium had knowledge of Student and a responsibility to Student under Child Find, the complaint fails to provide North Coastal Consortium with any facts as to how it was responsible for child find or providing a free appropriate public education to Student.

The same cannot be said with respect to San Dieguito. San Dieguito alleges issues one and two of Student's complaint are insufficient. San Dieguito argues issues one is identical to a previous complaint Student filed that OAH found insufficient. Student named multiple districts in the previous complaint with a general allegation that all districts failed in their child find duties to Student. Student's current complaint does not have the same deficiencies. Student does not allege any facts as to what San Dieguito did nor did not due until May 2020. However, Student's allegation is San Dieguito failed in its child find duties because it did not "seek and find" Student. San Dieguito has enough information from the complaint to understand when it because responsible for Student and the nature of the problem. Student's issue one is sufficient as to San Dieguito.

Student's second issue alleges a failure to assess, and more specifically, that San Dieguito failed to properly assess Student during the Covid-19 pandemic. Student offers more than two pages of facts about San Dieguito's assessment and alleged deficiencies in the assessment. Student provided San Dieguito enough information to understand and respond to the problem. Therefore, Student's issue two is sufficient.

Student's proposed resolutions request eligibility for special education, reimbursement, and placement at a residential treatment center. A complaint is required to include proposed resolutions to the problem, to the extent known and available to the party at the time. (20 U.S.C. §1415(b)(7)(A)(ii)(IV).) The proposed resolution stated in Student's complaint are well-defined. Student has met the statutorily required standard of stating a resolution to the extent known and available to him at the time.

ORDER

1. Student's complaint is insufficiently pled under section title 20 United States Code 1415(c)(2)(D) as to North Coastal Consortium.
2. 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), and shall be filed not later than 14 days from the date of this order.
4. If Student fails to file a timely amended complaint, North Coastal Consortium will be dismissed as a party.
5. The complaint is sufficient under title 20 United States Code section 1415(b)(7)(A)(ii) as to San Dieguito.
6. All mediation, prehearing conference, and hearing dates in this matter are confirmed for San Dieguito only.

IT IS SO ORDERED.

Linda Johnson

Linda Johnson

Administrative Law Judge

Office of Administrative Hearings