BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

SACRAMENTO CITY UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2023010106

ORDER DETERMINING DUE PROCESS COMPLAINT INSUFFICIENT

January 24, 2023

On January 5, 2023, Parent on behalf of Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Sacramento City Unified School District. On January 20, 2023, Sacramento City Unified filed a timely Notice of Insufficiency as to the complaint.

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.)

Student's complaint lists four issues, all of which are insufficient. The issues are discussed below.

Student's complaint describes problems that occurred prior to January 5, 2021, two years before the complaint was filed. Sacramento City Unified contends the complaint is unclear as to whether Student is raising claims prior to January 5, 2021, outside the two-year statute of limitations. (20 U.S.C. § 1415(f)(3)(C); Ed. Code, § 56505, subd. (l).)

Student does not specifically contend, nor does the complaint allege facts to support, an exception to the two-year statute of limitations. (20 U.S.C. § 1415(f)(3)(D); Ed. Code, § 56505, subd. (l).) Accordingly, to the extent Student's complaint raises claims prior to January 5, 2021, those claims are insufficiently plead, and Student's claims are therefore limited to alleged violations from January 5, 2021, through January 5, 2023, the date the complaint was filed.

Issues 1, 2, 3, and 4 are insufficiently plead. Student alleges facts under a Brief Summary of Facts section of the complaint. However, the complaint fails to sufficiently identify which alleged facts Student is basing each of the issues on, to provide Sacrament City Union with an awareness and understanding of the problems described in each issue.

Issue 1 contends Sacramento City Unified failed to timely assess Student, and denied Parent's multiple requests for an assessment of Student. However, the complaint fails to identify the dates, school years, or IEP team meetings that the claims in Issue 1 are based on. The problems described in Issue 1 fail to provide sufficient information about when Sacramento City Unified allegedly failed to timely assess and denied Parent's requests for assessments, to provide Sacramento City Unified with an

awareness and understanding of the problems in Issue 1. Accordingly, Issue 1 is insufficient.

Issue 2 contends Sacramento City Unified failed to implement accommodations, modifications, and services pursuant to Student's IEP. However, the problems described in Issue 2 fail to identify the dates, school years, or IEPs of the alleged implementation violations. The problems described in Issue 2 fail to provide sufficient information about when Sacramento City Unified allegedly failed to implement Student's IEP, to provide Sacramento City Unified with an awareness and understanding of the problems in Issue 2. Accordingly, Issue 2 is insufficient.

Similarly, Issues 3 and 4 are insufficiently plead as they fail to identify the dates, school years, or IEPs that Sacramento City Unified allegedly failed to develop an IEP in conformity with the procedural safeguards and substantive requirements of the Individuals with Disabilities Education Act, and allegedly prevented Parents from meaningfully participating in Student's IEP process. Issues 3 and 4 fail to describe sufficient facts of when the problems described in Issues 3 and 4 occurred, to provide Sacrament City Unified with an awareness and understanding of the problems in those issues. Accordingly, Issues 3 and 4 are insufficient.

Student's proposed resolutions request publicly funded independent educational evaluations, compensatory educational services, placement in the least restrictive environment, and training for Sacramento City Unified's staff as to Student unique needs. 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 and meet the statutorily required standard of stating a resolution to the extent known and available to Student at the time.

ORDER

1. Student's complaint is insufficiently pled under title 20 United States Code section 1415(c)(2)(D).
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 United States Code 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, the complaint will be dismissed.
5. All dates previously set in this matter are vacated.

Rommel P. Cruz

Rommel P. Cruz

Administrative Law Judge

Office of Administrative Hearings