BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2019020712
v.	ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT
CAMBRIAN SCHOOL DISTRICT.	

On February 19, 2019, Parent on Behalf of Student filed a Due Process Hearing Request[1] (complaint) with the Office of Administrative Hearings naming Cambrian School District (Cambrian) as a party. On March 5, 2019, Cambrian filed a Notice of Insufficiency as to Student's complaint asserting that the time period of the claims is ambiguous.

APPLICABLE LAW

The named parties to a due process hearing request have the right to challenge the sufficiency of the complaint. (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 contains: (1) a description of the nature of the problem of the child relating to the proposed initiation or change concerning the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to the child; (2) facts relating to the problem; and (3) a proposed resolution of the problem 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

[1] A request for a due process hearing under Education Code section 56502 is the due process complaint notice required under title 20 U.S.C. section 1415(b)(7)(A).

broad remedial purposes of the Individuals with Disabilities Education Act 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 complaint in this case states adequate facts to put Cambrian on notice of the subject matter of the claims being made in this case and suggests proposed resolutions to address the concerns. The only question is whether the complaint is seeking remedies for a period of time that exceeds the basic two-year statute of limitations.

The opening paragraph of Student's complaint states that it raises claims "during the statutory period." Throughout the complaint, when facts might be interpreted to expand the statute of limitations beyond two years, Student has added footnotes stating that remedies are being sought for the "statutory period" or "pursuant to the statute of limitations."

The IDEA limits the time period for filing a request for due process as follows: "A parent or agency shall request an impartial due process hearing **within 2 years of the date the parent or agency knew or should have known about the alleged action that forms the basis of the complaint** or, if the State has an explicit time limitation for requesting such a hearing under this part [20 USCS §§ 1411 *et seq*.] in such time as the State law allows." (20 U.S.C. § 1415 (f)(3)(C).)

California's statute of limitations in special education cases is two years from the date Parents knew or should have known of the facts underlying the basis for their request for due process, with two limited exceptions. (Ed. Code § 56505, subd. (l).) In the *Avila v. Spokane School District 81* (9th Cir. 2017) 852 F. 3d 936, the Ninth Circuit confirmed that the IDEA recognizes the applicability of a state law specifying a statute of limitations in special education cases. (*Avila at p. 941;* 20 U.S.C. §1415(f)(C)(3); Ed. Code § 56505, subd. (l).)

Due to the limiting language pled by Student regarding the time period at issue, the complaint asserts claims only for two years prior to the date the complaint was filed. Accordingly, the complaint is sufficient.

ORDER

1. The allegations of Student's complaint are sufficient to put Cambrian on notice of the claims being made and suggested resolutions to Student's described problems. Student's complaint contains issues arising not more than two years from the date of filing. Accordingly, the complaint is sufficiently clear to meet the requirements of the IDEA. (20 U.S.C. § 1415(b)(7)(A)(ii)(III) & (IV).)

2. The prehearing conference and hearing shall proceed on the dates currently scheduled in this matter.

IT IS SO ORDERED.

DocuSigned by:
Penelope S. Pahl
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DATE: March 12, 2019

PENELOPE S. PAHL
Administrative Law Judge
Office of Administrative Hearings