BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

SANTA ROSA ACADEMY.

OAH CASE NUMBER 2020100169

ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

OCTOBER 8, 2020

On October 5, 2020, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Santa Rosa Academy. On October 7, 2020, Santa Rosa 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

Student's complaint alleges three insufficiently pled claims. The complaint fails to provide Santa Rosa with the required problem description and the facts relating to the problem.

Issue One states several claims. The first allegation is a violation of FAPE/IDEA as it applies to Student's need for Parent to provide assistance and communication for him. It also alleges Santa Rosa Academy's school board president and two parent members of the school board failed to answer Parent's questions via email or timely respond to Parent's public records requests. Lastly, it alleges the named school board members' willfully disregarded ADA compliance, breached HIPPA, and committed libel/defamation against Parent. There are no facts that describe how Santa Rosa denied Student a FAPE. It is unclear how the allegations related to the behavior of Santa Rosa's school board members' denied Student a FAPE. As a result, Issue one is insufficiently pled.

Issue Two requests relief for retaliation against Parent regarding "the implementation and daily assistance for [Student's] current IEP at Santa Rosa Academy but with regards to prior OAH litigation . . . at the other school district." It is unclear what is being alleged in Issue Two that relates to the implementation and daily assistance for Student's IEP. There are insufficient facts provided in the complaint for Santa Rosa to know how to prepare for the hearing and how to participate in resolution sessions and mediation. Based on the insufficient facts, Issue Two is insufficiently pled.

The allegation in Issue Three requests relief for retaliation for Parent's public petition to recall of Santa Rosa Academy school board members based on their violations of the Brown Act. Issue Three does not describe a problem related to a proposed change regarding Student's identification, evaluation, or educational

placement, or providing the Student a free appropriate education. Therefore, Issue Three is insufficiently pled.

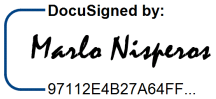
Santa Rosa alleges Student's proposed resolutions requests are unclear with respect to the IDEA and the resolutions requested are not within the jurisdiction of the IDEA or OAH. A complaint is required to include proposed resolutions to the problem, to the extent known and available to the party at the time. (20 U.S.C. §1415(b)(7)(A)(ii)(IV).) The proposed resolution stated in Student's complaint is not well-defined. However, Student has met the statutorily required standard of stating a resolution to the extent known and available to him at the time.

A parent without an attorney may request that OAH provide a mediator to assist the parent in identifying the issues and proposed resolutions that must be included in a complaint. (Ed. Code, § 56505.) Parents are encouraged to contact OAH for assistance if they intend to amend their due process hearing request.

ORDER

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

IT IS SO ORDERED.



Marlo Nisperos

Administrative Law Judge

Office of Administrative Hearings