BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

ESCONDIDO UNION ELEMENTARY SCHOOL DISTRICT.

OAH CASE NUMBER 2024040004

ORDER DETERMINING DUE PROCESS COMPLAINT PARTIALLY SUFFICIENT

MAY 9, 2024

On March 29, 2024, Student filed a due process hearing request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Escondido Union Elementary School District. On April 12, 2024, Escondido Union filed a notice of insufficiency as to the complaint.

On April 16, 2024, OAH determined that Student's complaint was partially sufficient, with multiple claims being found insufficiently pled. OAH gave Student leave to file an amended complaint.

On April 25, 2024, Student filed his first amended complaint, alleging eight issues against Escondido Union. On May 8, 2024, Escondido Union filed a notice of insufficiency only as to Issue 1 of Student's first amended 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 46540-46541, 46699.)

DISCUSSION

Student alleges eight claims in his first amended complaint. However, Escondido Union only challenges the sufficiency of Student's Issue 1.

Student's Issue 1 broadly alleges that Escondido Union denied Student a free appropriate public education during the two years prior to the filing of Student's complaint by failing to implement Student's individualized education program, called an IEP.

The issue does not specify what portions of which IEPs Student is alleging Escondido Union failed to implement. Moreover, nowhere in Student's amended complaint is an allegation that Escondido Union failed to implement any portion of Student's operative IEPs during the relevant timeframe.

The only references to Escondido Union's alleged failure to implement any part of Student's program, are allegations that Escondido Union "failed to develop and implement a Behavior Intervention Plan." Despite Student's use of "implement", Student's claim is that Escondido Union did not offer a behavior intervention plan as part of Student's program. Therefore, Student failed to state sufficient facts supporting this claim, and the claim is insufficient.

ORDER

1. Issues 2 through 8 in Student's first amended complaint are sufficient under title 20 U.S.C. section 1415(b)(7)(A)(ii).
2. Issue 1 of Student's first amended complaint is insufficiently pled under title 20 United States Code section 1415(c)(2)(D).
3. Student shall be permitted to file an amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II).
4. 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. The filing of an amended complaint will restart the applicable timelines for a due process hearing.
5. If Student fails to file a timely amended complaint, the hearing shall proceed only on Issues 2 through 8 of Student's first amended complaint.

IT IS SO ORDERED.

Ashok Pathi

Ashok Pathi
Administrative Law Judge
Office of Administrative Hearings