BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

SBE- MAGNOLIA SCIENCE ACADEMY SANTA ANA AND EL DORADO COUNTY CHARTER SPECIAL EDUCATION LOCAL PLAN AREA.

OAH CASE NUMBER 2022050270

ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

JUNE 17, 2022

On May 5, 2022, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Magnolia Science Academy Santa Ana, Los Angeles Unified School District, the Santa Ana Unified School District, and the El Dorado County Charter SELPA as respondents. On May 17, 2022, Student filed a notice dismissing claims against Santa Ana Unified School District and Los Angeles Unified School District.

On May 19, 2022, Magnolia Science Academy Santa Ana filed a Notice of Insufficiency as to Student's May 5, 2022, complaint. On May 23, 2022, OAH determined Student's complaint filed on May 5, 2022, was insufficient. The order gave Student leave to file an amended complaint.

On May 31, 2022, at 12:41 p.m. El Dorado filed a notice of insufficiency. However, no action was taken on this NOI as Student had not yet filed an amended complaint. Thereafter, Student filed a First Amended Complaint as permitted by OAH's May 23, 2022, order. Student's First Amended Complaint was deemed filed on May 31, 2022.

On June 6, 2022, El Dorado filed a notice of insufficiency as to Student's First Amended Complaint. On June 13, 2022, prior to a ruling on El Dorado's notice of insufficiency, Student submitted another amended complaint. That amended complaint was not accompanied by a Motion to Amend. The First Amended Complaint was deemed filed on May 31, 2022, because OAH's May 23, 2022, Order specifically granted leave to amend. Except when leave is granted, an Amended Complaint must be accompanied by a Motion to Amend. Such amendment will be considered and the motion ruled upon through OAH's pre-hearing motion practice. As no motion accompanied Student's June 13, 2022, submission, no action was taken on the filing. Student's operative complaint, therefore, is the one filed on May 31, 2022. For the purposes of this order and to clarify the status of Student's complaint, El Dorado's Notice of Insufficiency was filed on June 6, 2022, challenging the sufficiency of Student's May 31, 2022, 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).

The complaint is deemed sufficient unless a party notifies OAH and the other party in writing within 15 days of receiving the complaint that the party believes the complaint has not met the notice requirements. (20 U.S.C. § 1415(c)(2)(C); Ed. Code, § 56502, subd. (d)(1).)

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.] 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 46541, 46699.)

DISCUSSION

Student's First Amended Complaint contains no substantive changes from its original complaint. Despite guidance from OAH in the first determination of insufficiency, Student simply recycled his first complaint. Student's 26 page amended complaint is line-by-line the same as Student's original complaint. At no point does Student clearly describe the nature of the problems or facts as they relate to the El Dorado County Charter SELPA. Even with the liberal pleading standards, Student's complaint remains insufficient. Student failed to provide El Dorado County SELPA sufficient information to form an awareness and understanding of the issues or how to prepare for a resolution session or due process.

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 a second amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II).
3. The second amended complaint shall comply with the requirements of title 20 U.S.C. section 1415(b)(7)(A)(ii), and shall be filed no 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.

Tiffany Gilmartin
Tiffany Gilmartin (Jun 17, 2022 16:11 PDT)

Tiffany Gilmartin

Administrative Law Judge

Office of Administrative Hearings