BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

VISTA UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2023110904

ORDER DETERMINING DUE PROCESS COMPLAINT INSUFFICIENT

DECEMBER 8, 2023

On November 29, 2023, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Vista Unified School District as respondent. On December 7, 2023, Vista filed a Notice of Insufficiency as to the complaint.

APPLICABLE LAW

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.)

COMPLAINT INSUFFICIENT WITHOUT PROPOSED RESOLUTIONS

Vista filed this notice of insufficiency on the grounds that Student failed to offer proposed resolutions in the complaint. The complaint does fail to offer any proposed resolutions.

The facts alleged in Student's complaint are sufficient. However, Vista is entitled to know the proposed resolutions Student contemplates so that Vista can respond and participate in a resolution session and mediation. A complaint is required to include

proposed resolutions to the problem, to the extent known and available to the party at the time the complaint is filed. (20 U.S.C. §1415(b)(7)(A)(ii)(IV).)

ORDER

1. Student's complaint is insufficiently pled under section title 20 United States Code 1415(c)(2)(D) due to the failure to state proposed resolutions to the problems stated.
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 an amended complaint within 14 days from the date of this order, the complaint will be dismissed.
5. All dates previously set in this matter are vacated.

IT IS SO ORDERED.

Penelope Pahl

Penelope S. Pahl
Administrative Law Judge
Office of Administrative Hearings