BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

SAN DIEGUITO UNION HIGH SCHOOL DISTRICT,
NORTH COASTAL CONSORTIUM FOR SPECIAL EDUCATION, AND
SAN DIEGO COUNTY OFFICE OF EDUCATION.

OAH CASE NUMBER 2021050037

ORDER FINDING COMPLAINT INSUFFICIENTLY PLED AS TO NORTH COASTAL CONSORTIUM FOR SPECIAL EDUCATION

MAY 17, 2021

On April 29, 2021, Student filed a due process hearing request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming San Dieguito Union High School District, North Coastal Consortium for Special Education, and San Diego County Office of Education. On May 14, 2021, North Coastal timely 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, educational placement, or providing the Student a free appropriate public education, called a FAPE; (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

Here, Student includes many allegations in the complaint regarding North Coastal's involvement with its member school districts. However, none of the allegations describe a problem relating to a proposed change regarding Student's identification, evaluation, educational placement, or provision of a FAPE by North Coastal. None of the allegations contain facts about North Coastal being involved in the identification, evaluation, educational placement, or provision of a FAPE to Student.

Student alleges that North Coastal is a proper party because it did not ensure that its member districts complied with their seek and serve obligations under the IDEA, or documented those efforts. However, whether or not North Coastal failed in its obligations to member districts, these facts do not describe an obligation for North Coastal to itself seek or serve Student, or to offer Student a FAPE.

Student alleges that member districts use individualized education programs, or IEPs, and notices on forms identifying them as North Coastal members. Student alleges that he resides in a district within North Coastal boundaries. These allegations are devoid of facts describing North Coastal as involved in the identification, evaluation, educational placement, or provision of a FAPE to Student.

Student alleges that North Coastal has violated its funding obligations to the State of California by not providing sufficient oversight of its member districts. These allegations fail to provide any factual basis for finding that North Coastal was involved in the identification, evaluation, educational placement, or provision of a FAPE to Student.

Student alleges that special education local plan areas, like North Coastal, can be involved in a student's educational program. Even so, Student fails to allege that North Coastal was involved in Student's own identification, evaluation, educational placement, or provision of a FAPE.

Student alleges that North Coastal maintains a database of its members' students, and because of a database error, the member school districts attended by Student could not locate Student's name in that database. Again, Student alleges violation of a duty owed to member school districts, and not to Student. North Coastal's maintenance of a database for member districts is not a fact that describes North Coastal as involved in the identification, evaluation, educational placement, or provision of a FAPE to Student.

In summary, Student fails to allege any obligation by North Coastal owed to Student, rather than consortium members. Student's allegations that North Coastal provides oversight and guidance to member districts do not describe facts showing that North Coastal was involved in the identification, evaluation, educational placement, or provision of a FAPE to Student. There may be a forum elsewhere for Student's complaints regarding the level of oversight provided by North Coastal over its member districts, but they are not issues delineated in the IDEA for due process.

Student's complaint is insufficiently pled as to North Coastal. The complaint fails to provide North Coastal with the required problem description and the facts relating to the problem.

ORDER

1. Student's complaint is insufficiently pled under section title 20 United States Code 1415(c)(2)(D), as to North Coastal Consortium for Special Education.
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. The filing of an amended complaint will restart the applicable timelines for a due process hearing.
4. If Student fails to file a timely amended complaint, the complaint will be dismissed as to North Coastal Consortium for Special Education, and the hearing shall proceed only as to San Dieguito Union High School District and San Diego County Office of Education.

Alexa Hohensee

Alexa Hohensee
Administrative Law Judge
Office of Administrative Hearings