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 2020100133

ORDER OF DETERMINATION OF SUFFICIENCY OF AMENDED DUE PROCESS COMPLAINT

OCTOBER 23, 2020

On October 15, 2020, Student filed an Amended Due Process Hearing Request, called an amended complaint, with the Office of Administrative Hearings, referred to as OAH, naming Santa Rosa Academy. On October 21, 2020, Santa Rosa Academy filed a Notice of Insufficiency as to the 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 46,540-46541, 46699.)

DISCUSSION

Student's amended complaint alleges three insufficiently pled claims. Issue One is identical to that filed on October 2, 2020 and was previously determined to be insufficient. Student added the following information to the original allegations "I was on the phone and have a witness to testify on my behalf" and "Please see correspondence they sent me proving denial of FAPE/IDEA and the ability to provide that to my children based on their lies". Student submitted correspondence dated September 30, 2020 concurrently with the amended complaint. Handwritten notes on the correspondence indicate that the correspondence is a lie. Amended Issue One does not state sufficient facts about a problem relating to the proposed change regarding the Student's identification, evaluation, or educational placement or providing the Student with a free appropriate education. As a result, Amended Issue One is insufficiently pled.

Amended Issue Two is the same issue that was filed in the initial complaint and previously determined to be insufficient. In Amended Issue Two Student added a request asking OAH to review a prior case where Student alleges the same named person was involved in a prior matter. The information in Amended Issue Two does not remedy the ambiguity that existed previously. Amended Issue Two alleged issues of retaliation against Parent, an unclear issue related to a 504 plan, and allegations of illegal activity by an individual. For the reasons stated, Amended Issue Two is insufficiently pled because there are insufficient facts to determine whether Student is eligible for special education and related services under the IDEA and therefore entitled to its procedural safeguards.

Lastly, Issue Three in the amended complaint is identical to the allegation in the first complaint and determined to be insufficiently pled. Amended Issue Three alleged that Parent requested public records and they were not provided. Student also claimed

an incident on September 30, 2020 occurred between Parent and a named individual on the school campus. The Amended Issue Three does not state facts relating to a provision of FAPE and does not describe any issues related to special education services and supports provided to Student. Amended Issue Three is insufficiently pled.

Student's proposed resolutions are sufficient. 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.

DocuSigned by:
Marlo Nisperos
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Marlo Nisperos

Administrative Law Judge

Office of Administrative Hearings