BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

NEW HAVEN UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2025041199

ORDER DETERMINING DUE PROCESS COMPLAINT PARTIALLY SUFFICIENT

MAY 8, 2025

On April 25, 2025, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming New Haven Unified School District. On May 7, 2025, New Haven filed a Notice of Insufficiency as to the complaint.

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 Board of Educ. v. Benton* (S.D.Ala. 2005) 406 F.Supp.2d 1248, 1259-1260; *Sammons v. Polk County School Board* (M.D.Fla., Oct. 28, 2005, 8:04CV2657T24EAJ) 2005 WL 2850076 [nonpub. opn.]; but cf. *M.S.-G v. Lenape Regional High School Dist. Board 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.)

Student's complaint alleges three problems, two of which are insufficient and one of which is sufficient. The issues are discussed below.

Student's first stated problem asserts he has a speech delay and New Haven created an individualized education program, called an IEP, when Student was in kindergarten during the 2021-2022 school year. Student alleges "services that he was promised was [sic] not given." This assertion suggests Student attempted to plead a claim of failing to implement Student's IEP. But Student's complaint fails to allege what the IEP required that New Haven did not implement. The grammar of the allegation highlights how it is ambiguous whether Student claims only one service that was supposed to be provided was not implemented, or whether Student claims New Haven failed to implement multiple services required by his operative IEP. Additionally, Student complaint fails to state when the alleged failure or failures to implement Student's IEP occurred. Therefore, Student has failed to state sufficient facts supporting this claim, and the claim is insufficient.

Student's second stated problem asserts that after repeating kindergarten, Student currently is in second grade and "learned nothing from the 6 months he was attending Alvarado Elementary School" so Parent "pulled him out of the district Feb. 3rd, 2025." This fails to allege what New Haven did wrong. It stands only as a factual explanation, from the Parent's point of view, of why Parent withdrew Student from a New Haven public school and enrolled him in a private school. Student failed to state any claim about any proposed change regarding the Student's identification, evaluation, or educational placement, or providing Student a free appropriate public

education. The complaint fails to provide New Haven with the required problem description and facts relating to the problem, and the claim is therefore insufficient.

Student's third stated problem alleges that after Parent withdrew Student from a New Haven elementary school on February 3, 2025, Parent requested an independent educational evaluation, and New Haven did not respond to that request. While Student's complaint does not identify the exact date of the request after February 3, 2025, or what category or categories of assessments Parent requested be conducted by independent evaluators, New Haven has sufficient information about the alleged recent events to respond, participate in a resolution session and mediation, and prepare for hearing. Issue 3 is sufficiently pleaded to put New Haven on notice as to the basis of Student's claim regarding failing to respond to Parent's recent request for an independent educational evaluation.

MEDIATOR ASSISTANCE FOR NON-REPRESENTED PARENTS: 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.) Parent is encouraged to contact OAH for assistance if she intends to amend the due process hearing request.

ORDER

1. Issue 3 of Student's complaint is sufficient under title 20 United States Code section 1415(b)(7)(A)(ii).
2. Issues1 and 2 of Student's complaint are insufficiently pleaded 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 United States Code 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 Issue 3 in Student's complaint.

Kara Hatfield

Kara Hatfield
Administrative Law Judge
Office of Administrative Hearings