**BEFORE THE**
**OFFICE OF ADMINISTRATIVE HEARINGS**
**STATE OF CALIFORNIA**

# IN THE MATTER OF:

# PARENT ON BEHALF OF STUDENT,

**v.**

# SANTA CLARA COUNTY OFFICE OF EDUCATION, DISCOVERY CHARTER SCHOOL 2, AND SUNNYVALE SCHOOL DISTRICT.

# OAH CASE NUMBER 2019090001

## ORDER DETERMINING DUE PROCESS COMPLAINT INSUFFICIENT

On August 30, 2019, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Santa Clara County Office of Education and Discovery Charter School 2. On October 11, 2019, Student filed an amended complaint in order to add Sunnyvale School District as a party. On October 25, 2019, Sunnyvale 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, 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 is insufficiently pled as to Sunnyvale. The amended complaint has four issues, detailed facts supporting the issues, and proposed

resolutions. However, on the face of the complaint, the issues, facts, and proposed resolutions only relate to Discovery Charter and Santa Clara. The amended complaint does not allege Sunnyvale failed to identify, evaluate, or offer Student a free appropriate public education. Therefore, the amended complaint fails to give Sunnyvale notice of the issues being alleged against it.

## ORDER

1. Student's amended complaint is insufficiently pled, as to Sunnyvale only, under section title 20 United States Code 1415(c)(2)(D).
2. Student may file a second amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II).
3. The second amended complaint must comply with the requirements of title 20 U.S.C. section 1415(b)(7)(A)(ii), and must be filed no later than 14 days from the date of this Order.
4. If Student fails to file a timely second amended complaint, the complaint will be dismissed, as to Sunnyvale only.
5. All dates currently scheduled in the case are confirmed.

## IT IS SO ORDERED.

DATED: October 29, 2019

DocuSigned by:
Tara Doss
0D223C0D8032412...

Tara Doss
Administrative Law Judge
Office of Administrative Hearings