BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL DISTRICT, ACADEMY OF MEDIA ARTS, AND WISH CHARTER SCHOOL.

OAH CASE NUMBER 2022110521

ORDER FINDING AMENDED COMPLAINT INSUFFICIENT

MARCH 28, 2023

On November 18, 2022, Parents on behalf of Student filed a due process hearing request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Los Angeles Unified School District. On March 16, 2023, Student filed an amended complaint naming Los Angeles Unified School District, Academy of Media Arts, and WISH Charter School. On March 28, 2023, WISH Charter School timely filed a notice of insufficiency as to the amended 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, 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, and 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.)

Here, Student's complaint is vague as to time periods and parties. Student does not state when, or if, Student attended school in the local educational agencies named. Student references various individualized education programs, or IEPs, but does not give the date of the particular IEPs in dispute, whether those IEPs were consented to, or when Student contends they were in effect. Most problematic, Student describes interactions with individuals by their name only, without stating which agency Student contends that

individual was representing, or their title. Student also vaguely references a 2021 agreement with Los Angeles, but it is unclear when that agreement expired, or whether Student is seeking to have the entire agreement set aside. Student contends she was entitled to tutoring services in an IEP, but fails to state which IEP offered Student tutoring services, or when that IEP was not implemented.

Student also states a narrative over three claims, but it is unclear if Student makes multiple claims or a single claim of failure to implement tutoring services. All three claims appear to reallege that Student was entitled to tutoring services under an IEP, but the IEP was not implemented because tutoring services were not provided. If Student is making one claim and needs more room in the complaint, Student can attach a separate sheet with additional information to provide details for that one claim.

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. Student seeks reimbursement for tutoring, but refers only to the pandemic and afterwards, without reference to the dates the tutoring services began or ended. Again, without reference to the school or schools Student was attending while the tutoring services were obtained, it is unclear which educational agency Student contends is responsible for the proposed remedy.

Student's amended complaint alleges three insufficiently pled claims. Although WISH Charter filed the notice of insufficiency, the amended complaint fails to provide any of the named respondents with the required problem description, the facts relating to the problem, or proposed remedy. Accordingly, this Order finds the amended complaint insufficient as to WISH Charter School, Los Angeles Unified School District, and Academy of Media Arts.

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.) Parents are encouraged to contact OAH for assistance if they intend to amend their due process hearing request.

ORDER

1. Student's amended complaint is insufficiently pled as to all respondents under section title 20 United States Code section 1415(c)(2)(D).
2. Student will be permitted to 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 United States Code section 1415(b)(7)(A)(ii) and must be filed not later than 14 days from the date of this order.
4. If Student fails to file a timely second amended complaint, the amended complaint will be dismissed.
5. All dates previously set in this matter are vacated.

Alexa Hohensee

Alexa Hohensee
Administrative Law Judge
Office of Administrative Hearings