BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

SACRAMENTO CITY UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2022080137

ORDER DETERMINING AMENDED COMPLAINT INSUFFICIENT

SEPTEMBER 21, 2022

On July 29, 2022, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Sacramento City Unified School District. On August 12, 2022, Sacramento City filed a Notice of Insufficiency as to the complaint. On August 16, 2022, OAH determined Student's complaint partially insufficient. Specifically, Student's Issues 4, 5, 7, 8, and 11, were determined sufficient, and Issues 1, 2, 3, 6, 9, and 10 were determined insufficient. OAH granted Student leave to amend the due process complaint within 14 days, or the case would proceed only on Issues 4, 5, 7, 8, and 11.

On August 30, 2022, Student timely filed an amended complaint. On September 12, 2022, Sacramento City filed a Motion to Dismiss Student's complaint in its entirety. Sacramento City's Motion to Dismiss is considered a Notice of Insufficiency as to Student's amended complaint. On September 15, 2022, Student filed an opposition and request for sanctions. On September 16, 2022, Sacramento City filed a reply.

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

Sacramento City's Motion to Dismiss Student's amended complaint is considered a Notice of Insufficiency because the basis of its motion is that the amended complaint does not satisfy the requirements of a properly pled complaint. Specifically, Sacramento City argues the amended complaint fails to include sufficient information to describe the nature of the problem underlying the amended complaint.

Student's complaint alleges 11 insufficiently pled claims. Student's amended complaint fails to provide Sacramento City with the required problem description and the facts relating to the problem. Each of Student's 11 issues expressly incorporate all facts and legal authorities as stated in Student's July 29, 2022 complaint, which became inoperative upon the filing of Student's amended complaint. As these facts were not set forth in the amended complaint itself, the amended complaint is unclear, as it fails to include the alleged facts about the problems.

In addition to Student's failure to state facts pertaining to the problems, Student's issues previously found to be insufficient by OAH order, dated August 16,

2022, are regurgitated in Student's amended complaint. Although Student attempts to explain and clarify some of the determined insufficiencies, Student's explanations were confusing and made the issues even more unclear. For instance, Student's amended complaint inconsistently asserts that issues 1-11 are within the two-year statute of limitations; yet includes facts alleging the withholding of information Sacramento City was required to provide, as support to include claims predating the two-year statute of limitations. Student failed to amend the issues themselves to provide any clarification to resolve the inconsistency. Based on the forgoing, Student's amended complaint provided insufficient information to enable Sacramento City to prepare for a resolution session, mediation and hearing. Accordingly, Student's amended complaint is fatally unclear and insufficient in its entirety, and Student's request for sanctions is denied.

ORDER

1. Student's amended complaint is insufficiently pled under section title 20 United States Code 1415(c)(2)(D).
2. Student shall 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 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. Specifically, Student's second amended complaint shall:
    a. consist of one document containing a concise statement of each issue including the specific facts relating to each issue;
    b. if an issue is asserting a claim outside the two-year statute of limitations, Student shall state the basis for extending the two-year statute of limitations, and related supporting facts;

c. the second amended complaint shall set forth all relevant facts without reference to other documents.

4. If Student fails to file a timely second amended complaint consistent with this order, this matter may be dismissed.

IT IS SO ORDERED.

Rita Defilippis

Rita Defilippis

Administrative Law Judge

Office of Administrative Hearings