BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

OXNARD UNION HIGH SCHOOL DISTRICT.

OAH CASE NUMBER 2023110570

ORDER DETERMINING DUE PROCESS COMPLAINT INSUFFICIENT

DECEMBER 4, 2023

On November 16, 2023, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, called OAH, naming Oxnard Union High School District as respondent. On December 1, 2023, Oxnard 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 complaint alleges two insufficiently pled claims:

> Issue 1: The OUHSD Denied Student a FAPE by Failing to Offer or Provide a Program that Offered Student a Substantive and Procedural FAPE from November 2021 to the Present Based on the Facts Referenced Above and/or as Identified in Hearing.
>
> Issue 2: The OUHSD Has Failed to Conduct Appropriate Assessments Related to Psycho-Educational Evaluation, Vision, Transition, Occupational and Physical Therapy and Assistive Technology.

With respect to Issue number 1, Student has failed to specify the FAPE denials being asserted. It is not Oxnard's obligation to guess which of the assertions in the seven pages of facts stated prior to the issue statement might form the basis for Student's denial of FAPE allegations in this complaint. Furthermore, facts "identified at hearing" are not claims alleged in a complaint. The party requesting the hearing is limited to the issues alleged in the complaint unless the other party consents. (20 U.S.C. § 1415(f)(3)(B); Ed. Code, § 56502, subd. (i).) Student's issue number one fails to provide Oxnard with adequate notice of the claims asserted against it to prepare for resolution session, mediation or hearing.

As to Issue number 2, an assertion that Oxnard failed to "conduct appropriate assessments," including psychoeducational evaluation, vision, transition, occupational and physical therapy and assistive technology" fails to put Oxnard on notice of the scope of the issue. Here, Student has indicated in issue number one that he is asserting the statute of limitations should be extended. Issue number two does not cite a date frame at all. However, allegations in the complaint related to assessments reach back to

2019. Additionally, Student's issue is also unclear as to whether Student is alleging that assessments were never completed, or that completed assessments failed to meet legal standards.

The issue statement also references a failure to provide "ambitious and challenging goals", related services associated with areas in which inadequate assessments are alleged, and a failure to provide compensatory education. As a result, Oxnard is left unclear as to the scope of allegations encompassed by this issue. Is Student challenging a failure to assess going back four years or is there another applicable time frame? Is Student asserting claims that all assessments conducted in the past four years were defective? Is Student asserting Oxnard failed to offer or implement goals or failed to provide services pursuant to assessment results? Oxnard should not be required to guess what the allegations are. Issues should be clearly set forth in the issue statement. Nor should Oxnard be required to prepare to defend a wider range of claims than Student intends to raise simply because the issue is insufficiently pled. Student's issue number two fails to provide Oxnard with adequate notice of the claims asserted against it to prepare for resolution session, mediation, or hearing.

Oxnard also challenges some of Student's proposed resolutions; however, that challenge is not persuasive. 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 are not well-defined. However, Student has met the statutorily required standard of stating a resolution to the extent known and available at the time of filing.

ORDER

1. Student's complaint is insufficiently pled under section title 20 United States Code 1415(c)(2)(D). All dates previously set in this matter are vacated.
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.

IT IS SO ORDERED.

Penelope Pahl

Penelope S. Pahl
Administrative Law Judge
Office of Administrative Hearings