BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

PLEASANTON UNIFIED SCHOOL DISTRICT AND SUNOL GLEN UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2024060790

ORDER DETERMINING DUE PROCESS COMPLAINT SUFFICIENT

AUGUST 8, 2024

On June 24, 2024, Student filed a due process hearing request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Pleasanton Unified School District and Sunol Glen Unified School District. On July 9, 2024, Sunol Glen filed a notice of insufficiency to Student's complaint. On July 19, 2024, OAH determined Student's complaint was partially sufficient.

On July 23, 2024, Student filed a first amended complaint. On August 7, 2024, Sunol Glen timely filed a notice of insufficiency to Student's first amended complaint.

Student alleges numerous claims against both Pleasanton and Sunol Glen in her complaint. However, Sunol Glen only challenges the sufficiency of Student's Issues 1, 2(B), 3(B)(i) and (ii), and 9. as they pertain to Sunol Glen.

STUDENT SUFFICIENTLY PLEADED ISSUE 1 AS TO SUNOL GLEN.

Sunol Glen contends that Student failed to plead sufficient facts to put it on notice of the nature of the problem, specifically facts related to any intentional misrepresentation, deceit, or withholding of educational records from Student. Student contends that Sunol Glen denied Student a FAPE during the 2023-2024 school year when it failed to provide all her educational records within five days of Student's attorney's request for them on May 19, 2024, and is intentionally withholding Students' education records.

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 deemed sufficient unless a party notifies OAH and the other party in writing within 15 days of receiving the complaint that the party believes the complaint has not met the notice requirements. (20 U.S.C. § 1415(c)(2)(C); Ed. Code, § 56502, subd. (d)(1).) Student argues the complaint was served on June 22, 2024, and that Sunol Glen's notice of insufficiency was untimely filed 17 days after receiving the complaint. Student transmitted the complaint to OAH on Saturday June 22, 2024, at 1:30 AM. The proof of service asserts Student transmitted the complaint to the Superintendent of Sunol Glen, by email, on Saturday June 22, 2024. The complaint is

deemed filed and served on Monday June 24, 2024, and Sunol Glen timely filed the notice of insufficiency.

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 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. (*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 represented in her complaint and Sunol Glen corroborated in its notice of insufficiency that on May 21, 2024, Sunol Glen responded to Student's records request stating that Student attended Sunol Glen from August 22, 2016, through June 3, 2021, and that her school records were sent to Pleasanton.

Student claimed that Pleasanton provided educational records upon counsel's request in May 2024, and numerous Sunol Glen documents were missing, and have been intentionally withheld by both respondents. Additionally, Student alleged other document types or categories might also exist from her time at Sunol Glen that she did not receive in response to her attorney's requests to the two school districts.

The facts alleged in Student's Issue 1 are sufficient. Student's complaint in Issue 1 identified the issue and adequate facts about the problem to permit Sunol Glen to respond and participate in a resolution session and mediation and prepare for hearing. Sunol Glen's statements in the notice of insufficiency that it has none of Student's education records because it transmitted them all to Pleasanton when Student transferred to Pleasanton in 2021 demonstrated that the complaint has provided enough information to be aware of the acts or omissions that Student contended caused a problem with Student's education. Further, Sunol Glen's notice of insufficiency made factual and legal arguments that would constitute a complete defense to Student's Issue 1, showing Sunol Glen has sufficient notice of the nature of the problem. Accordingly, Student's Issue 1 is sufficient.

STUDENT SUFFICIENTLY PLEADED ISSUES 2B, 3(B)(I) AND (II), AND 9 AS TO SUNOL GLEN

Sunol Glen contends that Issues 2(B), 3(B)(i), 3(B)(ii), and 9 fall outside the statute of limitations and fail to provide specific facts related to any misrepresentations or withholding information that caused a delay in her filing for due process. In Student's preliminary issue, Student argued that the respondents willfully misrepresented and withheld information and documents regarding Student's educational needs and undermined parents' right to meaningful participation in the IEP process and requested relief under the statute of limitations exceptions.

Student's complaint was filed on June 24, 2024. Claims arising before June 24, 2022, are barred unless an exception to the statute of limitations applies. Student alleged claims against Sunol Glen going back to 2016.

The statute of limitations in California is two years, consistent with federal law. (Ed. Code, § 56505, subd. (*l*); see also 20 U.S.C. § 1415(f)(3)(C).) However, title 20 United States Code section 1415(f)(3)(D) and Education Code section 56505, subdivision (*l*), establish exceptions to the statute of limitations in cases in which the parent was prevented from filing a request for due process due to specific misrepresentations by the local educational agency that it had resolved the problem forming the basis of the complaint, or the local educational agency's withholding of information from the parent that was required to be provided to the parent.

California has held that a claim accrues for purposes of the statute of limitations when a parent learns of the injury that is a basis for the action. That is, the claim accrues when the parent knows that the education provided is inadequate, and not when the parent understands a claim occurred. (*M.M. & E.M. v. Lafayette School Dist.* (N.D.Cal.,

Feb. 7, 2012 Nos. CV 09– 4624, 10–04223 SI) 2012 WL 398773, ** 17 – 19, affd. in part and revd. in part on other grounds by *M.M. v. Lafayette School Dist.*, et al (9th Cir. 2014) 767 F.3d 842, 859.)

It does not matter if the parent understood that the inadequacy was a legal claim, what is material is the fact that the parent had knowledge of the problem. Congress intended to obtain timely and appropriate education for special-needs children. Congress did not intend to authorize the filing of claims under the IDEA many years after the alleged wrongdoing occurred. (*Student v. Brea Olinda Unified School Dist*. OAH Case No. 2009050815, quoting *Alexopulous v. San Francisco Unified School Dist*. (9th Cir. 1987) 817 F.2d 551, 555.)

STUDENT'S ISSUE 2B

Student's Issue 2(B) alleged Sunol Glen denied Student a FAPE by failing to identify, locate, and evaluate Student as a child suspected of having a disability, a duty called "child find," during the 2016-2017, 2017-2018, 2018-2019, 2019-2020, and 2020-2021 school years.

Student generally stated under Issue 2(B) of her complaint in paragraph 118 that from the 2016-2017 school year, through the 2020-2021 school year, Sunol Glen misrepresented to Parents that Student was doing fine in its school programs, and Parents relied on these misrepresentations. Student further contended during the same time that Sunol Glen withheld all procedural rights and notices from Parents. In paragraphs 125 and 126, Student generally alleged during the same time that it mispresented to Parents that Student could be better served with a 504 plan rather than an individualized education program.

The complaint continued with further factual specificity in paragraphs 119, 120, 121, and 122. In those paragraphs, Student alleged specific misrepresentations related each school year at issue. The complaint alleged that that Parents relied on the misrepresentations, denying Student her rights, thus inferring that it prevented Student from filing a due process hearing complaint.

Student sufficiently pleaded Issue 2(B). Based upon Sunol Glen's notice of insufficiency, it is aware that the Student's bases for piercing the statute of limitations relates to the two exceptions to the statute of limitations. Student's complaint sufficiently pleaded facts related to both misrepresentations by Sunol Glen that it had resolved the problem forming the basis of the complaint, and that it withheld information from Parents that was required to be provided, from the 2016-2017 school year through the 2020-2021 school year. Student's Issue 2(B) further set forth adequate facts about the alleged misrepresentations and withholding of information to permit Sunol Glen to respond and participate in a resolution session and mediation and prepare for hearing. Accordingly, Student's Issue 2(B) is sufficient.

STUDENT'S ISSUE 3B(I) AND (II)

Student's Issues 3(B)(i) and (ii) in the complaint alleged Sunol Glen denied Student a FAPE when it failed to find Student special education eligible under the categories of autism and other health impairment. Specifically, Student alleged that Student exhibited significant behavior to suspect she was a child with a disability in need of special education and related services over many years, specifically under the categories of autism and other health impairment, but Sunol Glen did not assess her for special education eligibility to determine if she qualified.

Student further alleged in paragraphs 143 and 144 of the complaint, from the 2016-2017 school year through the 2020-2021 school year, Sunol Glen mispresented that Student was doing fine in its school programs and did not qualify for special education. Student further alleged that Sunol Glen withheld all procedural rights and notices from Parents and that Parents relied on Sunol Glen's misrepresentations. This, Student argued, denied them of their legal rights, inferring it caused a delay in filing a due process complaint.

In Student's complaint, specifically in paragraphs 145-150, and 156-159, Student described specific misrepresentations for every school year at issue. Thus, Student's complaint sufficiently pleaded facts related to misrepresentations by Sunol Glen and that it withheld information from the parent that was required to be provided, from the 2016-2017 school year through the 2020-2021 school year. Student's Issues 3(B)(i) and (ii) identified the bases for piercing the statute of limitations, namely misrepresentation and withholding, and supplied adequate facts about each basis to permit Sunol Glen to respond and participate in a resolution session and mediation and prepare for hearing. Accordingly, Student's Issues 3(B)(i) and (ii) are sufficient.

STUDENT'S ISSUE 9

Student's Issue 9 alleged Sunol Glen's acts violated Student's and Parents' rights under section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act," Title VI of the Civil Rights Act, "and other related civil rights statutes." Student acknowledged in her complaint that these claims were brought for exhaustion purposes. Sunol Glen acknowledged in its notice of sufficiency that it will bring a motion to dismiss for lack of jurisdiction for this issue. However, it also claimed that Student failed to provide specific facts related to the statute of limitations and is therefore insufficient.

Here, Student's complaint alleged sufficient facts to put Sunol Glen on notice that Student is attempting to state the claims in Issue 9 to exhaust administrative remedies only. Thus, Student's Issue 9 is sufficient.

ORDER

1. Student's Issues 1, 2(B), 3(B)(i) and (ii), and 9 are sufficiently pleaded under title 20 United States Code section 1415(b)(7)(A)(ii).

2. All dates in this matter are confirmed.

IT IS SO ORDERED.

Cynthia Fritz

Cynthia Fritz
Administrative Law Judge
Office of Administrative Hearings