BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

FONTANA UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2024030616

ORDER DETERMINING DUE PROCESS COMPLAINT INSUFFICIENTLY PLED

MARCH 29, 2024

On March 15, 2024, Student filed a due process hearing request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Fontana Unified School District, called Fontana. On March 29, 2024, Fontana filed a notice of insufficiency as to the 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; (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.)

Student's complaint alleged two issues that Fontana contends are insufficiently pled due to vagueness and lack of notice. Here, the complaint failed to sufficiently put Fontana on notice of the issues forming the basis of the complaint.

Issue One of the complaint names one student, and the legal issues name another student. It is unclear whether this was a scrivener's error, meaning a mistake in drafting the complaint, or whether the legal issues refer to a different student. As a result, the complaint does not accurately identify the student and is vague and confusing.

Issue One also fails to allege specific facts to put Fontana on notice of the nature of the problem. Issue One generally alleges Fontana failed to design an educational program designed to meet Student's needs from at least November 2022 to the present but does not contain any facts in support of the allegation. For example, the complaint does not reference any specific individualized education program or any specific acts or failures to act sufficient to provide Fontana an awareness and understanding of the issues and proposed resolutions such that can be used to prepare for a resolution session, mediation, and due process hearing.

Issue Two alleges Fontana failed to provide Parent a full and complete copy of Student's educational records pursuant to a March 7, 2024, request. The complaint alleges no facts explaining how the failure to provide educational records denied Parent's opportunity to participate in the decision-making process or denied Student educational benefit. As drafted, Issue Two fails to allege sufficient facts to give Fontana an awareness and understanding of the issues and proposed resolutions. Accordingly, the complaint is insufficiently pled as to Fontana.

ORDER

1. Student's complaint is insufficiently pled under title 20 United States Code section 1415(c)(2)(D).

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.
5. All dates previously set in this matter are vacated.

IT IS SO ORDERED.

Jennifer Kelly

Jennifer Kelly
Administrative Law Judge
Office of Administrative Hearings