BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

ROSEVILLE JOINT UNION HIGH SCHOOL DISTRICT.

OAH CASE NUMBER 2024050456

ORDER DETERMINING DUE PROCESS COMPLAINT PARTIALLY SUFFICIENT

MAY 29, 2024

On May 10, 2024, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Roseville Joint Union High School District. On May 24, 2024, Roseville 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 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.)

Roseville complains Student's request for due process hearing, specifically Issues 4, 5, 6, and 8, purports to challenge the February 28, 2022 individualized education program, called IEP, and the IEP team meeting at which it was developed.

Roseville held the IEP team meeting and offered Student the resulting IEP more than two years before Student filed his complaint and outside the statute of limitations. (20 U.S.C. § 1415(f)(3)(C); Ed. Code, § 56505, subd. (*l*).) Roseville did not specifically itemize or argue about Issue 7, but Roseville asserts OAH should determine insufficient and dismiss "all issues containing allegations prior to May 10, 2022," which includes Issue 7, challenging the February 28, 2022 IEP's lack of an individual transition plan with college and career awareness services. Student fails to make even conclusory assertions his complaint was filed within two years of the date on which Parent "knew or should have known about the alleged action that forms the basis of the due process complaint" (34 C.F.R. § 300.507(a)(2)), or "knew or had reason to know of the facts underlying the basis for the request" concerning Issues 4, 5, 6, 7, and 8. (Ed. Code, § 56505, subd. (*l*)). Student also failed to plead any facts that would possibly constitute one of the two statutory exceptions to the two-year statute of limitations. (20 U.S.C. § 1415(f)(3)(D); Ed. Code, § 56505, subd. (*l*).)

Student's complaint alleges eight claims, some of which are sufficient and some which are insufficient. The issues are discussed below.

Issues 1, 2, and 3 concern events that occurred within two years of the date on which Student filed his complaint, and Roseville does not assert those issues were insufficiently pleaded. Student adequately stated Issues 1, 2, and 3, alleging Roseville failed in its "child find" duty in the 2023-2024 school year, failing in the 2023-2024 school year to offer Student an IEP instead of a plan of accommodations under section 504 of the Rehabilitation Act of 1973, and failing in the 2023-2024 school year to assess Student's possible need for occupational therapy and offer him occupational therapy.

With regard to Issues 4, 5, 6, 7, and 8, Student failed to plead any facts that would possibly constitute one of the two statutory exceptions to the two-year statute of

limitations. Therefore, Student has failed to state sufficient facts supporting these claims, and the claims are insufficient. To the extent Student's complaint claimed any denial of free appropriate public education, called FAPE, more than two years before the complaint was filed on May 10, 2024, it is insufficient and Student's claims are limited to those issues stated in Student's complaint that arose on or after May 10, 2022. (*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 & revd. in part (9th Cir. 2014) 767 F.3d 842, 858-859; *K.P., etc., v. Salinas Union High School Dist.* (N.D.Cal. April 8, 2016, Case No.5:08-cv-03076-HRL) 2016 WL 1394377.)

ORDER

1. Issues 1, 2, and 3 of Student's complaint are sufficient under title 20 United States Code section 1415(b)(7)(A)(ii).
2. Issues 4, 5, 6, 7, and 8 of Student's complaint are insufficiently pleaded under title 20 United States Code section 1415(c)(2)(D).
3. Student shall be permitted to file an amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II).
4. The amended complaint shall comply with the requirements of title 20 United States Code section 1415(b)(7)(A)(ii), and shall be filed not later than 14 days from the date of this order. The filing of an amended complaint will restart the applicable timelines for a due process hearing.

5. If Student fails to file a timely amended complaint, the hearing shall proceed only on Issues1, 2, and 3 in Student's complaint.

Kara Hatfield

Kara Hatfield

Administrative Law Judge

Office of Administrative Hearings