BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

EPIC CHARTER SCHOOL.

OAH CASE NUMBER 2024060381

ORDER FINDIING COMPLAINT INSUFFICIENTLY PLEADED

JUNE 26, 2024

On June 10, 2024, Parents on behalf of Student filed a due process hearing request, called a complaint, with the Office of Administrative Hearings, naming EPIC Charter School. The Office of Administrative Hearings is called OAH. EPIC Charter School is called EPIC. On June 25, 2024, Epic 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, called a 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 and 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 alleges two insufficiently pled claims. Student alleges general conclusions that EPIC provided sufficient services to Student prior to the COVID-19 pandemic but did not in the 2022-2023 school year. Student alleges he had functional and social-pragmatic communication, fine and gross motor skills, and sensory integration needs requiring services delivered in a one-to-one delivery model but fails to identify which services EPIC should have offered.

Student's complaint does not include facts on whether services to meet Student's alleged needs were offered in an insufficient delivery model, or not at all. Student fails

to specify the individualized education programs, or IEPs, developed by EPIC that Student contends were insufficient. Student's complaint also contains a conclusory sentence that he received insufficient ongoing accommodations and necessary modifications which significantly diminished the services and supports available, without specifying the accommodations or modifications, or which services and supports became unavailable.

The complaint is also vague and confusing because Issue 1 is whether EPIC "provided" services, making it unclear if Student is alleging EPIC denied him a FAPE by failing to offer appropriate services, or offered appropriate services that were not implemented in conformance with the IEPs.

Issue 1 also states EPIC failed to "provide" Student with the type, amount, and intensity, of individual academic instruction, physical therapy, occupational therapy, adapted physical education, and speech and language therapy for him to make meaningful progress on his annual goals. Although this appears to identify services, the complaint does not allege facts on any of these terms or services.

Lastly, Issue 2 alleges EPIC denied him reasonable accommodations in a discriminatory manner, but it is unclear if Student is alleging actions or inactions by EPIC as to Issue 2. The lack of factual allegations in Student's complaint makes the entire complaint impermissibly vague.

The complaint fails to provide EPIC with the required problem description and the facts relating to the problem.

ORDER

1. Student's complaint is insufficiently pled under section title 20 United States Code 1415(c)(2)(D).
2. Student will be permitted to file an amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II).
3. The amended complaint must comply with the requirements of title 20 United States Code section 1415(b)(7)(A)(ii) and must 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.

Alexa Hohensee

Alexa Hohensee
Administrative Law Judge
Office of Administrative Hearings