BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

MARK WEST UNION SCHOOL DISTRICT.

OAH CASE NUMBER 2025021014

ORDER DETERMINING DUE PROCESS COMPLAINT INSUFFICIENT

MARCH 5, 2025

On February 28, 2025, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Mark West Union School District as respondent. On March 5, 2025, Mark West timely 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.) 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.)

DISCUSSION

Student's complaint alleges three insufficiently pled claims. As discussed below, the complaint fails to provide Mark West with the required problem description and the facts relating to the problem, such that Mark West can participate in the resolution session and prepare for the due process hearing.

Student's Issue 1 claims that Mark West, "DENIED HIS OFFER OF FAPE, caused a deprivation of my child's educational benefits." Student then lists various disability-related laws, including the Individuals with Disabilities Education Act, The Rehabilitation Act of 1973, and The Americans with Disabilities Act. Student did not include any facts to explain how Mark West allegedly denied him a FAPE. Therefore, Student's Issue 1 is insufficiently pled.

Student's Issue 2 claims that Mark West, "DENIED HIS IEP AND WOULDN'T PROVIDED (sic) HIS ONE ON ONE BCBA THERAPIST ON CAMPUS." Student then lists portions of the Code of Federal Regulations. Student then alleges "PAID FOR IEE and school states they paid for IEE, invoices to prove." It is unclear whether this is a separate claim or part of Student's Issue 2. This lack of clarity is another reason why Student's Issue 2 is impermissibly vague. Therefore, Student's Issue 2 is insufficiently pled.

Student's Issue 3 claims that Mark West, "restraint (sic) unlawfully." Student references the Individuals with Disabilities Education Act. Student then provides what appears to be facts related to Student's third claim. "MARKWEST (sic) SUPPLIED AID (sic), AID (sic) LIED TO SELPA OFFICE IN REPORT. I HAVE DASH CAMERA PHOTOAGE (sic), FOUND [STUDENT] RESTRAINT UNLAWFULLY AT SUMMER CAMP." Other than to generally reference "summer camp", Student's does not explain when the alleged incident or incidents took place. It is not clear whether Student has any challenge

regarding the aide allegedly "supplied" by Mark West. It is also not clear what report Student alleged contains untruths, and whether this is a separate claim. Therefore, Student's Issue 3 is insufficiently pled.

Student is on notice that if he wishes to name multiple respondent parties that he must include their information in the complaint, serve them with a copy of the complaint, and have that service reflected in the proof of service attached to the complaint. Student only served Mark West with his initial complaint, so OAH only opened the case with Mark West as a respondent.

MEDIATOR ASSISTANCE FOR NON-REPRESENTED PARENTS: A parent without an attorney may request that OAH provide a mediator to assist the parent in identifying the issues and proposed resolutions that must be included in a complaint. (Ed. Code, § 56505.) Parent is encouraged to contact OAH for assistance if they intend to amend their due process hearing request.

ORDER

1. Student's complaint is insufficiently pled under section title 20 United States Code 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.

Ashok Pathi

Ashok Pathi
Administrative Law Judge
Office of Administrative Hearings