BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

SANTA ROSA ACADEMY.

OAH CASE NUMBER 2020100169

ORDER FINDING AMENDED COMPLAINT INSUFFICIENT

OCTOBER 22, 2020

On October 05, 2020, Parent on behalf of Student filed a due process hearing request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Santa Rosa Academy. On October 7, 2020, Santa Rosa Academy filed a notice of insufficiency as to the complaint. On October 8, 2020, OAH found Student's complaint to be insufficient and gave Student 14 days to file a legally sufficient amended complaint.

On October 15, 2020, Student filed an amended complaint. On October 21, 2020, Santa Rosa filed a timely notice of insufficiency as to the amended 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, or 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 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.)

DISCUSSION

Student's amended complaint alleges three claims, which are insufficiently pled. The amended complaint alleges violations of various privacy and civil rights laws, primarily against Parent, but fails to allege claims related to proposed changes regarding Student's identification, evaluation, or educational placement, or provision of a FAPE under the Individuals with Disabilities Education Act (20 U.S.C § 1400, et seq.) and related State special education laws.

To create the amended complaint, Parent filed the original complaint previously found insufficient by OAH with the addition of margin notes.

Student vaguely alleges at Issue 1 that Santa Rosa violated the IDEA by failing to provide a FAPE to Student in regards to Parent assistance and communication on behalf of her son. Due to a lack of facts, it is unclear if Parent is asserting that Parent's assistance is part of Student's educational program that was not offered or implemented by Santa Rosa, or that Parent was denied meaningful parental participation in developing Student's educational program. The amended complaint also alleges at Issue 1 that various Santa Rosa staff and school board members failed to respond to public records requests, disregarded the Americans with Disabilities Act, breached the privacy requirements of the Health Insurance Portability and Accountability Act, committed libel and defamation against Parent, and violated the Brown Act, none of which are special education laws.

The new Issue 1 margin notes contend that Parent has witnesses who can testify at hearing, and documentary evidence to prove Student's case. This new information does not remedy the original complaint's insufficiency.

The amended complaint alleges at Issue 2 that Santa Rosa discriminated against Parent as to Parent's implementation Student's individualized education program, or IEP, at home. No facts are alleged about whether or how Santa Rosa's actions impacted Student's identification, evaluation, educational placement, or educational program. The margin notes indicate that there was prior litigation that was settled, without further facts regarding Student or his education.

Student alleges at Issue 3 of the amended complaint that Santa Rosa school board members retaliated against Parent for petitioning the board members' recall. The margin notes add that Santa Rosa did not respond to a public records request, and that Parent was escorted when on campus to have Student's computer fixed. These notes do not add any facts about whether or how Santa Rosa's actions impacted Student's identification, evaluation, educational placement, or educational program.

With respect to Issue 1, 2 and 3, Student has failed to state sufficient facts supporting these claims, and the amended complaint is insufficient in its entirety.

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.) Parents are encouraged to contact OAH for assistance if they intend to amend their due process hearing request.

ORDER

1. Student's amended complaint is insufficiently pled under section title 20 United States Code 1415(c)(2)(D).
2. Student shall be permitted to file a second amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II).
3. The second 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 second amended complaint, the amended complaint will be dismissed.
5. All dates previously set in this matter are vacated.

DocuSigned by:
Alexa Hohensee
A7D463FF094544B...

Alexa Hohensee

Administrative Law Judge

Office of Administrative Hearings