BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. WILLIAM S. HART UNION HIGH SCHOOL DISTRICT.	OAH Case No. 2019031040 ORDER OF DETERMINATION OF SUFFICIENCY IN PART AND INSUFFICIENCY IN PART OF DUE PROCESS COMPLAINT

On March 26, 2019, Student filed a Due Process Hearing Request[1] (complaint) with the Office of Administrative Hearings naming William S. Hart Union High School District. On April 10, 2019, Hart Union filed a Notice of Insufficiency as to Student's complaint.

APPLICABLE LAW

The named parties to a due process hearing request have the right to challenge the sufficiency of the complaint. (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 contains: (1) a description of the nature of the problem of the child relating to the proposed initiation or change concerning the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to the child; (2) facts relating to the problem; and (3) a proposed resolution of the problem 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

[1] A request for a due process hearing under Education Code section 56502 is the due process complaint notice required under title 20 U.S.C. section 1415(b)(7)(A).

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

Here, Student alleges he was enrolled at Santa Clarita Elementary from kindergarten to 7th grade, and is now attending the 8th grade at an unnamed Hart Union middle school for the 2018-2019 school year. Hart Union is the only school district and local education agency named.

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

Student's first claim alleges Hart Union failed to conduct a timely, full and complete initial evaluation. Student alleges his initial Individualized Education Program team meeting was held on June 5, 2014, when he was in 3rd Grade. Student alleges no further details. This claim is insufficiently plead and does not put Hart Union on notice of the issues forming the basis of Student's complaint.

Student's second claim alleges Hart Union failed to offer an IEP that provided appropriate special education and related services, including counseling, psychological services, social work services, social skills training, home training, supplementary aides and services. Student alleges there were two IEPs held that year, October 5, 2018 and October 29, 2018. This claim is sufficiently plead and does put Hart Union on notice that the two IEP meetings held in 2018 are at issue.

Student's third claim alleges Hart Union failed to procedurally comply with the IDEA. Student alleges no further details. This claim is insufficiently plead and is vague and does not put Hart Union on notice of the issues forming the basis of Student's complaint because there are no specific details provided.

Student's fourth claim alleges Hart Union failed to advise parents about the continuum of educational placements available. Student alleges no further details. This claim is insufficiently plead and is vague and does not put Hart Union on notice of the issues forming the basis of Student's complaint because there are no specific details provided as to the time period or the IEP meetings involved.

Student's fifth claim alleges Hart Union failed to provide prior written notice when it refused parent's request for assistance including independent study, evaluations, and/or 'homebound' instruction. Student alleges no further details. This claim is insufficiently plead and is vague and does not put Hart Union on notice of the issues forming the basis of Student's complaint because there are no specific details provided as to the time period or the IEP team meetings involved.

Student's sixth claim alleges Hart Union failed to develop an IEP document which allowed Student to use the Full Opportunity clause of the IDEA. Student alleges no further details. This claim is insufficiently plead and is vague and does not put Hart Union on notice of the issues forming the basis of Student's complaint because there are no specific details provided as to the time period or the IEP team meetings involved.

Student's seventh claim alleges Hart Union failed to provide appropriate accommodations, supplementary aids and services resulting in a deprivation of educational benefit. Student alleges no further details. This claim is insufficiently plead and is vague and does not put Hart Union on notice of the issues forming the basis of Student's complaint because there are no specific details provided as to the time period or the IEP team meetings involved.

Student's eighth claim alleges Hart Union failed to provide special instructions to allow Student to progress toward his IEP goals. Student alleges no further details. This claim is insufficiently plead and is vague and does not put Hart Union on notice of the issues forming the basis of Student's complaint because there are no specific details provided as to the time period or the team IEP meetings involved.

Student's proposed resolutions are that Hart Union provide specified compensatory education, counseling, parental reimbursement, and staff training. A complaint is required to include proposed resolutions to the problem, to the extent known and available to the party at the time. (20 U.S.C. §1415(b)(7)(A)(ii)(IV).) The proposed resolutions stated in Student's complaint are well-defined requests that meet the statutorily required standard of stating a resolution to the extent known and available to Student at the time.

Issue 2 is sufficiently pled to put District on notice as to the basis of Student's claims.

With regard to Issues 1, 3, 4, 5, 6, 7 and 8, Student fails to allege sufficient details, time periods, and specific IEP meetings to provide Hart Union with notice of the claims against it. Therefore, Student has failed to state sufficient facts supporting this claim, and the claim is insufficient.

ORDER

1. Issue 2 of Student's complaint is sufficient under title 20 U.S.C. section 1415(b)(7)(A)(ii).

2. Issues 1, 3, 4, 5, 6, 7, and 8 of Student's complaint are insufficiently pled 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).[2]

4. 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.

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

DATE: April 12, 2019

DocuSigned by:
Deborah Myers-Cregar
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DEBORAH MYERS-CREGAR
Administrative Law Judge
Office of Administrative Hearings

[2] The filing of an amended complaint will restart the applicable timelines for a due process hearing.