BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

SANTA ANA UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2020120730

ORDER DETERMINING DUE PROCESS COMPLAINT PARTIALLY SUFFICIENT

JANUARY 5, 2021

On December 18, 2020, Student- filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Santa Ana Unified School District. On December 30, 2020, Santa Ana 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; *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 used OAH's form to file her complaint. OAH's form has spaces for multiple problems or complaints. Student used all three problem or complaint boxes to address what appears to be one issue. Student listed test scores from a 2016 achievement assessment in box one. In box two Student lists achievement scores from a 2019 assessment and alleges the scores show regression in some areas when compared to the 2016 scores. In box three Student explains the concerns. Student contends her primary need is language skills as she struggles with inferencing, vocabulary, and comprehension. Student alleges Santa Ana discontinued her speech services. Student contends Santa Ana failed to address Parent's concerns about the speech services when Parent raised the concerns around October of 2020.

Santa Ana argues Student's complaint is insufficient because it fails to include facts relating to the nature of Student's problems and fails to include the time frame, Santa Ana's alleged actions or inactions, and scope of the issues. Santa Ana contends that it cannot adequately prepare for, or participate in, a resolution session, mediation, or a due process hearing because Student does not specify a particular individualized education program that failed to offer Student a free appropriate public education, referred to as FAPE. Additionally, Santa Ana argues Student does not provide any details about when she "graduated from speech services" or how that relates to the scores listed directly above the statement.

Although Student's complaint does not include many details, if read as a whole, and not three individual problems, it is clear Student is alleging a denial of FAPE because Santa Ana discontinued Student's speech services. Student provides an approximate time frame, two months prior to when she filed the complaint, as when Parent tried to address the problem with Santa Ana. Student alleges some facts related

to the problem, that she struggles with language and lists some achievement scores that declined from 2016 to 2019. Student's one issue, that Santa Ana denied Student a FAPE when it discontinued speech services, is sufficient. Any other issues that Student intended to allege are insufficiently pled. If Student wants to raise any issue besides Santa Ana discontinuing speech services, Student will need to file an amended complaint.

Student's proposed resolutions request that OAH review Student's file to determine if Santa Ana failed to serve her and if so, that OAH order compensatory damages in the form of money to be used for tutoring, speech language services, or other programs. 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 not well-defined. OAH will not review Student's file nor will it award monitory damages. Student will have to prove any alleged violation. However, to the extent Student is requesting compensatory education, Student has met the statutorily required standard of stating a resolution to the extent known and available to her at the time.

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 issue, that Santa Ana denied Student a FAPE when it discontinued speech services, is sufficient under title 20 U.S.C. section 1415(b)(7)(A)(ii).

2. Any other issues Student intended to raise in the complaint are insufficiently pled under title 20 United States Code section 1415(c)(2)(D).
3. If Student intended to raise any issue besides Santa Ana discontinuing speech services, 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 U.S.C. 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 the issue listed in paragraph one of this Order.

IT IS SO ORDERED.

Linda Johnson

Linda Johnson

Administrative Law Judge

Office of Administrative Hearings