BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

OAKDALE JOINT UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2024060196

ORDER DETERMINING DUE PROCESS COMPLAINT PARTIALLY SUFFICIENT AND PARTIALLY INSUFFICIENT

JUNE 18, 2024

On June 04, 2024, 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 Oakdale Joint Unified School District. On June 14, 2024, Oakdale Joint Unified 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; *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 complaint alleges 18 issues, some of which are sufficient and some which are insufficient. The issues are discussed below:

Student's complaint sufficiently identifies Oakdale Joint Unified School District as the sole school district responsible for conduct described in each of the 18 issues. Thought Oakdale Joint Unified is not identified by name in each issue, Student's complaint clearly and unambiguously identified Oakdale Joint Unified as the sole entity or school district. Also, though some of Student's issues do not specifically state that the alleged failure or actions denied Student a FAPE, each issue is reasonably and contextually seen as an assertion that Student was denied a FAPE.

Issue 1 is sufficiently pled. Student alleges that Oakdale Joint Unified failed to conduct a functional behavior assessment between August 21, 2022, and August 31, 2022, though Student had 50 recorded discipline incidents, and that the failure to assess denied Student a FAPE. Issue 1 sufficiently provides an awareness and understanding of the basis of the issue for Oakdale Joint Unified to knowledgeably prepare for hearing and participate in a resolution session.

Issue 2 is insufficiently pled. Student alleges that Oakdale Joint Unified failed to provide an assessment plan in response to Parent's request in writing for a functional behavior analysis assessment. Issue 2 is insufficient because it does not state the date of Parent's assessment request. Without the date of the request, Oakdale Joint Unified cannot knowledgeably prepare for hearing and participate in a resolution session.

Issue 3 is insufficiently pled. Student alleges that Oakdale Joint Unified failed to call an IEP team meeting to review and revise Student behavior support plan, to address Student's discipline issues. Issue 3 does not include any dates or time frame for the

alleged failures. Without the dates or time frame, Oakdale Joint Unified cannot knowledgeably prepare for hearing and participate in a resolution session.

Issue 4 is sufficiently pled. Student alleges that, from 2022 through 2024, Oakdale Joint Unified failed to provide a behavior intervention plan that addressed Student's multiple behavior issues and suspensions in second and third grade. Oakdale Joint Unified has sufficient information to know how to prepare for the hearing and participate in resolution sessions and mediation.

Issue 5 is insufficiently pled. Student generally asserts that Student was denied a FAPE because Oakdale Joint Unified did not allow Student to attend multiple school-sponsored learning events and field trips. Issue 5 does not identify the events and the dates when Student was not allowed to attend. Without identifying the events and dates, Oakdale Joint Unified cannot knowledgeably prepare for hearing and participate in a resolution session.

Issue 6 is insufficiently pled. Student alleges that Oakdale Joint Unified failed to timely provide an assessment plan in response to Parent's written request for a for an evaluation of possible central auditory processing disorder. Issue 6 is insufficient because it does not state the date of Parent's request. Without the date of the request, Oakdale Joint Unified cannot knowledgeably prepare for hearing and participate in a resolution session.

Issue 7 is insufficiently pled. Student alleges that Oakdale Joint Unified failed to timely provide a prior written notice denying Parent's request for a for an evaluation of possible central auditory processing disorder. Issue 7 is insufficient because it does not state the date of Parent's request. Without the date of the request, Oakdale Joint

Unified cannot knowledgeably prepare for hearing and participate in a resolution session.

Issue 8 is insufficiently pled. Student alleges that Oakdale Joint Unified failed to identify the audiologist, when it requested Parent to sign a release of information, and that the expectation that Parent would release confidential information to an unknown person denied Student a FAPE. However, Student does not provide any dates or times regarding the release of information. Without dates or times, Oakdale Joint Unified cannot knowledgeably prepare for hearing and participate in a resolution session.

Issue 9 is insufficiently plead. Student generally alleges Oakdale Joint Unified failed to properly write quantitative baselines and measurable goals. However, Student does not name the goals, provide any dates, or identify the IEP's to which he refers. Therefore, Oakdale Joint Unified cannot knowledgeably prepare for hearing and participate in a resolution session.

Issue 10 is insufficiently pled. Student alleges that Oakland Joint Unified failed to properly evaluate Student and offer extended school year. Issue 10 does not provide any dates or identify the IEP's to which he refers. Therefore, Oakdale Joint Unified cannot knowledgeably prepare for hearing and participate in a resolution session.

Issue 11 is insufficiently pled. Student alleges that Student's IEP goals improperly identifies Student as a person responsible for implementing his IEP goals, instead of providing a properly credential person. Issue 11 does not provide any dates or identify the goals and IEP's to which he refers. Therefore, Oakdale Joint Unified cannot knowledgeably prepare for hearing and participate in a resolution session.

Issue 12 is sufficiently pled. Student asserts that Oakland Joint Unified failed to properly assess and identify Student as primarily or secondarily eligible for specific

learning disability, in Oakdale Joint Unified multidisciplinary assessment report, dated May 25 through April 15, 2024, denying Student a FAPE. Oakdale Joint Unified has sufficient information to know how to prepare for the hearing and participate in resolution sessions and mediation.

Issue 13 is insufficiently pled. Student asserts that Oakland Joint Unified failed to find Student as primarily or secondarily eligible under specific learning disability. Student does not identify the IEP to which he refers. Therefore, Oakdale Joint Unified cannot knowledgeably prepare for hearing and participate in a resolution session.

Issue 14 is sufficiently pled. Student alleges Oakland Joint Unified failed to provide Parent with an assessment plan following Parent's May 3, 2024, written request to assess Student in suspected areas of disability for dyslexia, dysgraphia, and dyscalculia. Oakdale Joint Unified has sufficient information to know how to prepare for the hearing and participate in resolution sessions and mediation.

Issue 15 is insufficiently pled. Student asserts that his August 31, 2023, IEP denied him a FAPE because it requires Student to be a person responsible for his goals. Student does not identify the goals to which he refers. Therefore, Oakdale Joint Unified cannot knowledgeably prepare for hearing and participate in a resolution session.

Issue 16 is sufficiently pled. Though Issue 16's language is somewhat jumbled, it sufficiently states that Oakdale Joint Unified's determination that Student did not require assistive technology to access his education, at the August 31, 2023, IEP team meeting, denied Student a FAPE. Oakdale Joint Unified has sufficient information to know how to prepare for the hearing and participate in resolution sessions and mediation.

Issue 17 is insufficiently pled. Student generally alleges that Oakdale Joint Unified improperly found that Student met goals by failing to accurately measure his progress. Issue 17 does not provide any dates or identify the goals and IEP's to which he refers. Therefore, Oakdale Joint Unified cannot knowledgeably prepare for hearing and participate in a resolution session.

Issue 18 is insufficiently pled. Student asserts that Oakdale Joint Unified denied Student a FAPE because it did not provide Parent with Student's educational records. Issue 18 does not provide any dates, such as when Parent requested the records or if Parent received any records. Therefore, Oakdale Joint Unified cannot knowledgeably prepare for hearing and participate in a resolution session.

Issues 1, 4, 12, 14, and 16 are sufficiently pled to put Oakdale Joint Unified School District on notice as to the basis of Student's claims.

With regard to Issues 2, 3, 5, 6, 7, 8, 9, 10, 11, 13, 15, 17, and 18, Student fails to allege the dates, time, IEPs, goals, and other necessary facts, as described in the discussion of each issue, above. Therefore, Student has failed to state sufficient facts supporting these claims, and the claims are insufficient.

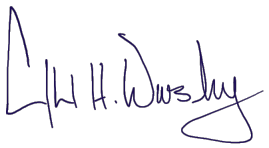
A parent without an attorney may request that OAH provide a mediator to assist the parent in identifying the issues and proposed resolutions that must be included in a complaint. (Ed. Code, § 56505.) Parents are encouraged to contact OAH for assistance if they intend to amend their due process hearing request.

ORDER

1. Issues 1, 4, 12, 14, and 16, in Student's complaint, are sufficient under title 20 United States Code section 1415(b)(7)(A)(ii).

2. Issues 2, 3, 5, 6, 7, 8, 9, 10, 11, 13, 15, 17, and 18, in 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).
4. The amended complaint shall comply with the requirements of title 20 United States Code 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 Issues 1, 4, 12, 14, and 16, in Student's complaint.

IT IS SO ORDERED.



Clifford H. Woosley

Administrative Law Judge

Office of Administrative Hearings