BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

DOWNEY UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2022050079

ORDER FINDING COMPLAINT INSUFFICIENTLY PLEADED

MAY 13, 2022

On April 29, 2022, Student filed a due process hearing request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Downey Unified School District. On May 12, 2022, Downey filed a timely 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, and 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 the complete history of Student's educational career, with only two of the 20-page complaint alleging facts within the two-year statutory period for IDEA claims. More problematic, Student's complaint does not identify specific claims against Downey, simply providing a recitation of facts without any statement of claims, forcing Downey and any administrative law judge assigned to hear this case to guess how Downey purportedly denied Student a FAPE.

On two pages Student's complaint alleges that during the 2019-2020, 2020-2021 and 2021-2022 school years Student received no educational benefit from online learning, was offered the same program without change despite reading and math scores in the kindergarten range, and was not offered an assessment or services to address Student's increasing maladaptive behaviors. However, Student fails to identify what claims, or how many claims, Student is making based on these allegations. This confusion is compounded by the fact that the allegations are a very small part of a long complaint. Further, Student fails to allege sufficient facts to pierce the two year statute of limitations. (20 U.S.C. § 1415(f)(3)(C); Ed. Code, § 56505, subd. (l); *M.M. & E.M. v. Lafayette School District* (N.D. Cal., Feb. 7, 2012, Nos. CV 09– 4624, 10–04223 SI) 2012 WL 398773, at pp.**17–19, affd. in part & revd. in part (9th Cir. 2014) 767 F.3d 842, 858-859.)

Student fails to identify the content or number of claims Student is asserting. The complaint is vague, particularly due to the lack of identified claims, and almost stream of consciousness recitation of Student's educational history. The complaint fails to provide Downey with the required problem description and the facts relating to the problem. Accordingly, the complaint is insufficiently pleaded.

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.

Alexa Hohensee

Alexa Hohensee

Administrative Law Judge

Office of Administrative Hearings