BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

PLEASANTON UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2023090703

ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT DENYING MOTION TO DISMISS

OCTOBER 04, 2023

On September 25, 2023, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Pleasanton Unified School District. On September 29, 2023, Pleasanton filed a Notice of Insufficiency and Motion to Dismiss as to the complaint. Student filed an opposition to Pleasanton's dual motions on October 3, 2023.

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 challenge to the sufficiency of the complaint must be made as a standalone motion. This motion included Pleasanton's Motion to Dismiss. This order denies Pleasanton's motion to dismiss as it was filed jointly with the Notice of Insufficiency.

The complaint is deemed sufficient unless a party notifies OAH and the other party in writing within 15 days of receiving the complaint that the party believes the complaint has not met the notice requirements. (20 U.S.C. § 1415(c)(2)(C); Ed. Code, § 56502, subd. (d)(1).)

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

The facts alleged in Student's complaint are sufficient. Student is alleging facts exist to extend the statute of limitations on the basis Pleasanton misrepresented the problem was resolved. Student alleges from 2013-2014 school year to present, Pleasanton denied Student a free appropriate public education for failing its child find obligation, failing to assess Student in all areas of suspected disability, failing to find him eligible for special education, failing to provide Parents Student's educational records within five days of request, and impeding Parental participation in the IEP process. Student also alleges violations of Section 504 of the rehabilitation Act, the ADA, Title IV, and other civil rights statutes. OAH does not have jurisdiction over those issues; however, they will not be addressed in a determination of sufficiency order.

Student's statement of facts and 16 issues meet the low pleading threshold required under the IDEA to give Pleasanton ""an awareness and understanding of the issues forming the basis of the complaint." This low threshold allows Pleasanton to participate in a resolution session and mediation. The issues will also be clarified at the prehearing conference. Student's allegations that facts exist to extend the statute of limitations is a question of law and fact and a determination cannot be made through a determination of sufficiency order.

ORDER

1. The complaint is sufficient under title 20 United States Code section 1415(b)(7)(A)(ii).
2. All mediation, prehearing conference, and hearing dates in this matter are confirmed.

IT IS SO ORDERED.

Tiffany Gilmartin
Tiffany Gilmartin (Oct 4, 2023 12:46 PDT)

Tiffany Gilmartin

Administrative Law Judge

Office of Administrative Hearings