BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

CALIFORNIA PACIFIC CHARTER SCHOOLS AND WARNER UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2024050337

ORDER DETERMINING ISSUES 2 AND 5 OF THE DUE PROCESS COMPLAINT INSUFFICIENT

MAY 22, 2024

On May 6, 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 California Pacific Charter Schools, called Charter, and Warner Unified School District. On May 21, 2024, Charter filed a notice of insufficiency as to Issues 2 and 5 of the complaint.

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, called a FAPE; (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.)

Charter contends that Student's Issue 2 and Issue 5 are vague and confusing.

Student alleges at Issue 2 that Charter denied Student a FAPE by failing to timely or appropriately assess Student for educationally related mental health services until May 2023, despite reports of difficulties with social emotional functioning and school anxiety in 2022. Charter contends the complaint does not allege facts supporting a

claim that the May 2023 assessment was inappropriate. The facts alleged in Student's complaint regarding the substance of the May 2023 assessment state that it concluded social emotional support was an area of need for Student. There are no factual allegations to support Student's claim at Issue 2 that the assessment was inappropriately performed. Student's Issue 2 is insufficient to provide Charter with an awareness and understanding of its basis.

Student alleges at Issue 5 that from May 6, 2022, through the filing of the complaint, Charter denied him a FAPE by failing to provide him with the services in his individualized education programs, or IEPs. Charter contends the facts alleged in Issue 5 limit Student's claim to March 26, through April 13, 2024. Student alleges at Issue 5 that he did not receive the accommodations in his November 12, 2023, IEP, specifically schedules, calendars, and planners to foster independence, and testing accommodations. Student further alleges that when Charter staff gave him schedules, they were inadequate and incorrect, and that he did not receive any accommodations from March 26, through April 13, 2024, when he was unilaterally unenrolled by Charter without parental consent. Student alleges a claim for failure to implement accommodations from November 12, 2023, but there are no facts to support a claim at Issue 5 from May 6, 2022, through November 12, 2023.

The facts alleged in Student's complaint as to Issues 2 and 5 against Charter are insufficient. As alleged, Student's complaint does not identify adequate facts about an alleged inappropriate assessment at Issue 2 or the period specified in Issue 5 to provide

Charter with an awareness and understanding of the issues forming the basis of Issue 2 and 5 of the complaint.

ORDER

1. Issues 2 and 5 of Student's complaint are insufficiently pled under section title 20 United States Code section 1415(c)(2)(D).
2. Student is permitted to file an amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II).
3. The amended complaint must comply with the requirements of title 20 United States Code section 1415(b)(7)(A)(ii) and must 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 proceed as to Issues 1, 3, 4, and 6 of the complaint.
5. All mediation, prehearing conference, and hearing dates in this matter are confirmed.

Alexa Hohensee

Alexa Hohensee
Administrative Law Judge
Office of Administrative Hearings