BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

GUADALUPE UNION SCHOOL DISTRICT.

OAH CASE NUMBER 2021010198

ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

JANUARY 25, 2021

On January 8, 2021, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Guadalupe Union School District. On January 22, 2021, Guadalupe Union 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

Guadalupe Union argued that Student's complaint is insufficient because it fails to provide clear issues, supporting facts with respect to those issues, and clear timeframes for when the issues arose. The complaint contains facts since Student was found eligible for special education on February 16, 2010. Despite the lengthy factual summary, the six issues raised in the complaint are sufficiently pled to put Guadalupe Union on notice as to the basis of Student's claims.

Student's complaint specified that the claims arose since May 12, 2020, when the parties entered into the settlement agreement. Student does not seek to enforce the settlement agreement. Student's first issue alleged that Guadalupe Union denied Student a free appropriate public education, commonly called FAPE, by failing to implement Student's stay put placement. Student placed at issue a letter sent by Guadalupe Union on April 9, 2020 which outlined services and the remote delivery of instruction and services during school closure due to COVID-19 and an IEP amendment offered on September 24, 2020. Student also alleged services offered in the settlement agreement, that were part of Student's stay put placement, were not implemented and were necessary for Student to receive an educational benefit. Student's second issue alleged a denial of FAPE for failing to assess Student in all areas of suspected disability. Student listed the dates Guadalupe Union conducted evaluations as September 14, September 21, September 30, 2020 and an on-campus observation on October 1, 2020.Student also alleged district failed to conduct a functional behavior analysis as part of his triennial evaluation.

Student's third issue contended he was denied a FAPE based on Guadalupe Union lying to his parents so that they were prevented from reasonably relying upon the district reports and Parents were unable to meaningfully participate in educational making decisions. Student claimed that the triennial assessment reviewed during IEP team meeting on November 10, and December 1, 2020 contained inaccurate information relating to Student's parents' failure to complete parent questionnaires for the assessment and the December 14, 2020 letter titled prior written notice contained lies about what happened at the October 7, 2020 IEP team meeting.

Student's issue four asserted that he was denied a FAPE because Guadalupe Union filed to timely offer an IEP or offer a FAPE. Student claimed his annual IEP FAPE offer was due on October 10, 2020 and an offer was not made to Parents translated into Spanish, their native language, until December 14, 2020. Issue five alleged that Guadalupe denied Student a FAPE by failing to provide a translated IEP document and or translations services, thereby denying parental participation. Student contended on September 24, 2020 an IEP amendment was offered in Spanish using Google Translate, at the November 10, 2020 IEP team meeting the translation support was poor and inaudible, and alleged that Parents requested and were not provided translated IEP documents prior to the IEP meetings held on October 7, November 10, and December 1, 2020. Student's issue six alleged that Guadalupe Union denied Student a FAPE by falsely stating parents prevented implementation of special education services which denied parent meaningful participation based on district's misrepresentations. Student alleged the false statement was contained in the letter sent on December 14, 2020. The facts alleged in Student's complaint are sufficient. Student's complaint identifies the issues and adequate facts about the problem to permit Guadalupe Union to respond and participate in a resolution session and mediation.

Therefore, Student's statement of the six claims is sufficient.

Student's proposed resolutions requests compensatory education, a copy of Student's cumulative file, and for district to fund independent educational evaluations. 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).) Student has met the statutorily required standard regarding proposed resolutions.

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.

Marlo Nisperos

Marlo Nisperos
Administrative Law Judge
Office of Administrative Hearings