BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

LOOMIS UNION SCHOOL DISTRICT.

OAH CASE NUMBER 2022080477

ORDER FINDING COMPLAINT INSUFFICIENTLY PLEADED

AUGUST 26, 2022

On August 17, 2022, Parents on behalf of Student filed a due process hearing request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Loomis Union School District. On August 25, 2022, Loomis timely filed a notice of insufficiency as to 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.)

Student's complaint alleges a single page-long Issue 1 with multiple subparts, and each of those subparts contains further subparts. As to Issue 1, Student's complaint contains a stream of consciousness factual narrative regarding his educational struggles and needs, and the Loomis' purported failure to provide Student with a FAPE. Issue 1 alleges that Loomis denied Student a FAPE from August 2019 forward, although the statute of limitations is two years, and the complaint does not allege an exception to the statute of limitations. More importantly, the majority of the complaint consists of quotations from various individualized education programs, called IEPs, interspersed with apparent comments. It is unclear if the comments were part of the IEP quoted or are insertions by Student. The format of quotations and comments is difficult to

decipher, and creates a vague and confusing complaint. This format fails to adequately describe the problems relating to the alleged denials of FAPE, and confuses the facts alleged about the problem. Issue 1 refers to a broad three-year period, and its subparts fail to identify the specific IEPs or dates on which certain actions or inactions allegedly occurred.

The complaint would be clearer, and give Loomis sufficient notice of the claims alleged, if it dispensed with quotations and comments without context. The complaint should instead state facts regarding any alleged denials of FAPE. For instance, a statement of facts showing that the student had needs in a certain area could be followed by an allegation that the school district failed to assess the student in a particular identified area of need, or that the school district failed to include a goal in an identified area of need in an identified IEP, or failed to offer sufficient services to meet that need in an identified IEP. Student will have an opportunity to make an evidentiary showing at hearing and does not need to quote from documents in the complaint.

The complaint fails to provide Loomis with the required problem description and the facts relating to the problem.

ORDER

1. Student's complaint is insufficiently pled under section title 20 United States Code 1415(c)(2)(D).
2. Student will be 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 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.

Alexa Hohensee

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Administrative Law Judge

Office of Administrative Hearings