BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

ROWLAND UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2022050680

ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

JUNE 2, 2022

On May 19, 2022, Parents on behalf of Student filed a due process hearing request, called complaint, with the Office of Administrative Hearings, called OAH, naming Rowland Unified School District as respondent. On May 31, 2022, Rowland Unified School District, called Rowland, 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

Student's complaint alleges three issues. Rowland contends that Student issues one and two are insufficient. The undersigned agrees with Rowland.

As to Student's issue one, titled "PROCEDURAL VIOLATIONS" Student alleges multiple including that Rowland failed to identify the hallmark signs of Student's disability. Rowland asserts generally that the allegations are vague and ambiguous as to time and specificity, fail to identify any individual education programs, the required services, how the offer was inappropriate, and what disabilities are at issue in this matter.

Here, Student's issue one is vague specifically regarding the contention alleging that Rowland failed to identify the hallmark signs of Student's disabilities. Additionally, the issue generally fails to include other specific facts such as what disabilities and services are at issue, what components of the offer or offers are being challenged, and the timeframe. Therefore, Student's issue one fails to provide sufficient information to put Rowland on notice of the issues forming the basis of the complaint and to allow it to prepare for mediation, hearing, and put forth a defense. Accordingly, Student's issue one is insufficiently pled.

Student's issue two, titled "SUBSTANTIVE VIOLATOINS" alleges Rowland failed to provide: academic and other support, a program, related services, and placement. Further, Rowland failed to address bullying. Rowland maintains that Student's issue two is insufficient as to time, does not identify any individual education programs at issue, or what Rowland should have provided to Student.

Here, Student's issue two fails to include any timeframe. Without sufficient information, Rowland cannot develop a sufficient understanding of the issues forming

the basis of the complaint to participate in mediation, due process hearing, or to enable it to formulate defenses. Thus, Student's issue two is insufficiently pled.

ORDER

1. Issues one and two of Student's complaint are insufficiently pled under title 20 United States Code section 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 shall comply with the requirements of title 20 U.S.C. section 1415(b)(7)(A)(ii) and must be filed not later than 14 days from the date of this order. The filing of an amended complaint will restart the applicable timelines for a due process hearing.
4. If Student fails to file a timely amended complaint, the hearing will proceed only on Student's issue three.

Cynthia Fritz

Cynthia Fritz
Administrative Law Judge
Office of Administrative Hearings