BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

WINDSOR UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2024050917

ORDER DETERMINING DUE PROCESS COMPLAINT PARTIALLY SUFFICIENT

JUNE 7, 2024

On May 24, 2024, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Windsor Unified School District. On June 7, 2024, Windsor Unified 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 Board of Educ. v. Benton* (S.D.Ala. 2005) 406 F.Supp.2d 1248, 1259-1260; *Sammons v. Polk County School Board* (M.D.Fla., Oct. 28, 2005, 8:04CV2657T24EAJ) 2005 WL 2850076 [nonpub. opn.]; but cf. *M.S.-G v. Lenape Regional High School Dist. Board 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 46540-46541, 46699.)

Student's complaint alleges nine claims, some of which are sufficient and some of which are insufficient. The issues are discussed below.

Although not pled as a separate issue, Student's Issues 1, 6, 7, and 8 raise several legal claims that are outside of the two-year statute of limitations. Student claims an exception to the two-year statute; however, Student did not provide factual contentions to support the assertion of misrepresentation or withholding of information. Therefore, Student has not appropriately addressed the issue of the statute of limitations as a separate issue nor has Student provided a factual basis to support an exception to the two-year rule.

Windsor Unified did not contest the sufficiency of Issues 2, 3, and 4; therefore, Issues 2, 3, and 4, are sufficiently pled to put Winsor Unified on notice as to the basis of Student's claims.

Issue 1 contends that during the 2021-2022 and 2022-2023 school years, Windsor Unified failed to assess Student in all areas of suspected disability. Student alleges an assessment on February 11, 2022, but fails to identify what areas of suspected disability were not assessed. Student's complaint also mentions an offer of an assessment plan at the January 31, 2023 IEP team meeting, but fails to clarify whether this event, or the lack of an assessment plan, is part of Student's contention of Windsor Unified's failure to assess. Therefore, Student has failed to state sufficient facts to support this claim, and Issue 1 is insufficient.

Issue 5 contends that during the 2022-2023 school year, Windsor Unified predetermined Student did not require a residential treatment program. Student alleged sufficient facts to identify the January 31, 2023 IEP and discussion of placement

at that time. Issue 5 is sufficiently pled to put Windsor Unified on notice as to the basis of Student's claims.

Issue 7 contends during the 2021-2022 and 2022-2023 school years, Windsor Unified failed to offer Student an IEP that was reasonably calculated to provide appropriate placement and services. Student contended Parents provided Windsor Unified with all relevant data on Student's past performance and diagnoses. Student, however, failed to sufficiently specify when this information was provided to Unified, and which IEP team meetings failed to consider the information or failed to offer a FAPE. Therefore, Student has failed to state sufficient facts to support this claim, and Issue 7 is insufficient.

Issue 8 contends that during the 2021-2022 and 2022-2023 school years, Windsor Unified failed to protect Student from bullying and failed to provide a safe learning environment. Student alleged sufficient facts that Student was severely bullied, Windsor Unified had knowledge of the bullying in its own emails, and that the bullying contributed to Student's inability to access his education. Issue 8 is sufficiently pled to put Windsor Unified on notice as to the basis of Student's claims commencing after May 24, 2022.

Issue 9 contends that during the 2021-2022, 2022-2023, and 2023-2024 school years, Windsor Unified Parents significantly impeded [or denied] meaningful parental participation by failing to address parental concerns, delaying the independent education evaluation process, failing to listen to expert opinions, failing to provide placement options, misrepresenting that Student was disenrolled, and asserting Student was not entitled to a FAPE. Student's claim is overbroad and vague. Student makes multiple contentions over three school years without specifying or further identifying

which contentions relate to each school year. Therefore, Student has failed to state sufficient facts to support this claim, and Issue 9 is insufficient.

ORDER

1. Issues 1, 6, and 7 of the complaint as stated are insufficient because the claims arose outside the statute of limitations and Student failed to allege sufficient facts to support an exception to the statute of limitations.
2. Issues 2, 3, 4, and 5 of the complaint are sufficient under title 20 United States Code section 1415(b)(7)(A)(ii).
3. Issue 8 of the complaint is sufficient for the period within the two-year statute of limitations.
4. Issues 7 and 9 of the complaint are insufficiently pled under title 20 United States Code section 1415(c)(2)(D).
5. Student shall be permitted to file an amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II).
6. The amended complaint shall comply with the requirements of title 20 United States. Code section 1415(b)(7)(A)(ii), and shall 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.

7. If Student fails to file a timely amended complaint, the hearing shall proceed only on Issues 2, 3, 4, 5, and 8 in Student's complaint.

IT IS SO ORDERED.

Judith Pasewark

Judith Pasewark

Administrative Law Judge

Office of Administrative Hearings