BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

ROWLAND UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2022040003

ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

APRIL 13, 2022

On March 30, 2022, 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 Rowland Unified School District. On April 11, 2022, Rowland 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 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 raises a number claims involving alleged procedural and substantive violations, some of which are sufficient and some which are insufficient. The complaint separates the claims as Issue 1 procedural violations, Issue 2 substantive violations, and Issue 3 procedural and substantive violations.

Issue 1 of the complaint lists four claims of procedural violations, three of which are insufficiently plead. The third claim described in Issue 1 on page 12, paragraph 49, identified in this Order as Issue 1(c), describes the alleged failure by Rowland Unified to provide Parent with translated individualized education program, called IEP, documents pursuant to Parent's requests in September and October 2020, for IEP documents translated into Parent's native language. The complaint sufficiently describes, and provides Rowland Unified with an understanding and awareness of the problem described in Issue 1(c). Accordingly Issue 1(c) is sufficient.

The remaining three claims in Issue 1 are insufficiently plead. The first claim, referred to as Issue 1(a), alleges Rowland Unified failed to identify and provide an appropriate educational program to address Student's attention deficits, learning disabilities, autism, and social emotional trauma. The second claim described on page 12, paragraphs 48 of the complaint, referred to as Issue 1(b), alleges Rowland Unified failed to advise Parent of the continuum of educational placements and available services. The fourth claim in Issue 1, described on page 12, paragraph 50 of the complaint, referred to as Issue 1(d), alleges that Rowland Unified failed to provide Student with sufficient direct instruction and related services.

However, the complaint fails to identify the period as to the alleged violations described in Issues 1(a), 1(b), and 1(d). The complaint fails to identify IEPs, school years,

or any period in which Rowland Unified allegedly failed to identify and address Student's unique needs; advise Parent of the continuum of education placements and available services, or provide Student with sufficient direct instruction and related services. The complaint is vague as to when these alleged violations occurred in the prior two years at issue and fails to provide Rowland Unified with a sufficient understanding and awareness of the problems related to Issues 1(a), 1(b), and 1(d). Accordingly, Issues 1(a), 1(b), and 1(d) are insufficient.

Issue 2 of the complaint lists three claims of substantive violations, all insufficiently plead. The first claim described on page 13, paragraph 52 of the complaint, and the second claim described in paragraph 53, identified as Issues 2(a) and 2(b) respectively in this Order, alleges Rowland Unified failed to provide Student with academic and other supports, related services, and an appropriate placement to address Student's needs. The third claim, described on page 13, paragraphs 54, 55 and 56, referred to as Issue 2(c), alleges Rowland Unified failed to offer Student self-advocacy and counseling services to address Student's anxiety and school avoidance as a result of the bullying Student experienced at school.

However, the complaint fails to identify the period as to the alleged violations described in Issue 2. The complaint fails to identify IEPs, school years, or any period in which Rowland Unified allegedly failed to provide Student with academic and other supports, related services, and an appropriate placement to address Student's needs, or offer Student self-advocacy and counseling services to address Student's anxiety and school avoidance as a result of the bullying Student experienced at school. The complaint fails to describe bullying experienced by Student that Rowland Unified should have addressed during the statutory time period. The complaint is vague as to when these alleged violations occurred and fails to provide Rowland Unified with sufficient

understanding and awareness of the problems related to the claims in Issue 2. Accordingly, Issues 2(a), 2(b), and 2(c) are insufficient.

Issue 3 of the complaint describes one claim which is sufficiently plead. Issue 3 alleges that Rowland Unified failed to provide Student with in-person supports or services during distance learning. The problem described under Issue 3 is limited to the alleged failure to provide Student with in-person supports and services during the period when distance learning was offered by Rowland Unified in response to COVID-19 related school closures. Issue 3 does not allege violations involving distance learning during the 2021-2022 school year. The problems described in the complaint involving the 2021-2022 school year, described on pages 8, 9, and 10, paragraphs 32 to 41, involve home hospital instruction, not a distance learning program in response to the COVID-19 related school closures. The complaint sufficiently describes the problem regarding Student's distance learning program, and provides Rowland Unified with an understanding and awareness of the problem described in Issue 3. Accordingly Issue 3 is sufficient.

ORDER

1. Issues 1(c) and 3 of Student's complaint are sufficient under title 20 U.S.C. section 1415(b)(7)(A)(ii).
2. Issues 1(a), 1(b), 1(d), 2(a), 2(b), and 2(c) of Student's complaint are insufficiently pled under title 20 United States Code section 1415(c)(2)(D).
3. Student shall be permitted to file an amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II).
4. The amended complaint shall 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. The filing of an amended complaint will restart the applicable timelines for a due process hearing.

5. If Student fails to file a timely amended complaint, the hearing shall proceed only on Issues 1(c) and 3 of Student's complaint, as identified in this Order.

IT IS SO ORDERED.

Rommel P. Cruz

Rommel P. Cruz
Administrative Law Judge
Office of Administrative Hearings