BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

GREENFIELD UNION SCHOOL DISTRICT AND KERN COUNTY SUPERINTENDENT OF SCHOOLS.

OAH CASE NUMBER 2022080531

ORDER DETERMINING DUE PROCESS COMPLAINT INSUFFICIENT

AUGUST 23, 2022

On August 15, 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 Greenfield Union School District and Kern County Superintendent of Schools. On August 22, 2022, Greenfield and Kern County filed a joint 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 considering 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.] 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 46541, 46699.)

This complaint does not clearly state the number of issues being pled or the facts of the claims being made. The unconventional use of brackets throughout the complaint results in the statements being broken up, and unintelligible. The complaint fails to provide either Greenfield or Kern County with the required statement of the individual problems and description of facts relating to the problems claimed that would allow them to prepare to discuss settlement or prepare for a hearing.

Minimal pleading standards apply to requests for due process pursuant to the Individuals with Disabilities Education Act or IDEA. (*Schaffer ex rel. Schaffer v. Weast*, (2005) 546 U.S. 49, 54 [126 S.Ct. 528, 163 L.Ed.2d 387].) All that is required in a due process hearing complaint is a description of the nature of the problem of the child related to special education eligibility, assessments or placement; the provision of a free, appropriate public education of a child; or a disagreement between a parent or guardian and the public education agency as to the availability of a program appropriate for a child, including the question of financial responsibility. (20 U.S.C. § 1415(b)(6); Ed. Code, § 56501, subd. (a).) The due process hearing request must also include facts relating to the problem and a proposed resolution of the problem to the extent known to the party at the time of filing. (Ed. Code §56502(c)(1)(C) and (D); 20 U.S.C. § 1415 (b)(7)(B)(iii).) Parties are not required to state the code or regulation sections that support their claims in a complaint, but must describe the facts showing special education laws have been violated.

Here, the Student's complaint does not meet the pleading requirements. As written, neither Greenfield nor Kern County can determine what claims are being made against them. As stated, the complaint fails to clearly allege the time period applicable to each claim or the facts Student believes show that either Greenfield or Kern County violated state or federal special education laws. It is also impossible to tell whether all

claims are against both Greenfield and Kern County, or whether some claims are stated only as to one or the other.

A parent without an attorney may request that OAH provide a mediator to assist the parent in identifying the issues and proposed resolutions that must be included in a complaint. (Ed. Code, § 56505.) Parents are encouraged to contact OAH for assistance if they intend to amend their due process hearing request. OAH also maintains a list on its website of free and low-cost attorneys who handle special education cases.

ORDER

1. Student's complaint is insufficiently pled under section title 20 United States Code 1415(c)(2)(D).
2. Student shall be permitted to file an amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II). All dates previously set in this matter are vacated.
3. The amended complaint must be filed not later than 14 days from the date of this order, and comply with the requirements of title 20 U.S.C. section 1415(b)(7)(A)(ii).
4. If Student fails to file an amended complaint within 14 days from the date of this order, the complaint will be dismissed.

IT IS SO ORDERED.

Penelope S. Pahl

Penelope S. Pahl
Administrative Law Judge
Office of Administrative Hearings