BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

LONG BEACH UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2022080388

ORDER DETERMINING INSUFFICIENCY OF DUE PROCESS COMPLAINT AND DENYING DISTRICT'S REQUEST FOR DISMISSAL AS MOOT

AUGUST 31, 2022

On August 15, 2022, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Long Beach Unified School District as respondent. On August 30, 2022, Long Beach filed a motion to dismiss the complaint or alternatively, a Notice of Insufficiency as to the complaint.

NOTICE OF INSUFFICIENCY

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.] 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.)

The facts alleged in Student's complaint are not sufficient to permit Long Beach to respond and participate in a resolution session and mediation. Although the complaint provides information as to the current school attended, that school is in the

Westminster Elementary School District, not Long Beach Unified School District, the only respondent. The required elements of a request for due process are intended to provide notice to the district at issue of the identity of the student, the school attended and the dates of enrollment at the very least. (10 U.S.C. § 1415(b)(7)(A); Ed Code. § 56502.) The pleading requirements should be liberally construed in light of the broad remedial purposes of the IDEA. (*Alexandra R. , supra,* CIV. 06-CV-0215-JL) 2009 WL 2957991[nonpub. Opn.]; *Benton*, *supra*, (S.D. Ala. 2005) 406 F.Supp.2d 1248, 1259-1260.] In this case, those purposes include providing adequate notice to Long Beach of the claims being made against it.

With regard to Issue One, Student fails to allege the school or other district program in which Student was enrolled in the Long Beach district, or the residency address or other basis for enrollment in Long Beach Unified School District. Although Student alleges he was enrolled in the district "during the time of the issues set forth in this complaint," he does not identify dates of enrollment, only asserting when he withdrew from the district. Therefore, Student has failed to state sufficient facts supporting this claim. Long Beach is unable to proceed to resolution session, mediation or hearing without the basic information regarding Student's residency address or other basis for Student's enrollment in the Long Beach district, the school or program attended in the Long Beach district and the dates Student attended school in the Long Beach district.

MOTION TO DISMISS

Long Beach filed a motion to dismiss in conjunction with the notice of insufficiency. While OAH does not usually rule on motions that are not separately filed, an exception is being made in this case because the motion is moot. Student's complaint has been determined to be insufficient. Student will either amend the

complaint or it will be dismissed. Thus, the issue of whether the complaint now determined to be insufficient should be dismissed, is moot.

ORDER

1. Student's complaint is insufficiently pled under section title 20 United States Code 1415(c)(2)(D). All dates previously set in this matter are vacated.
2. Student shall 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), as discussed in this order, 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. Long Beach's Motion to Dismiss is denied as moot.

IT IS SO ORDERED.

Penelope S. Pahl

Penelope S. Pahl
Administrative Law Judge
Office of Administrative Hearings