BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

GARDEN GROVE UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2021030225

ORDER OF DETERMINATION OF INSUFFICIENCY OF DUE PROCESS COMPLAINT

MARCH 16, 2021

On March 2, 2021, 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 Garden Grove Unified School District, referred to as Garden Grove. On March 15, 2021, Garden Grove 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

The complaint generally refers to events occurring during 2018 when Student allegedly moved into the boundaries of Garden Grove. The allegations of the complaint fail to identify the issues and adequate facts about the problem to put Garden Grove on notice as to the basis of Student's claims.

Issue One appears to allege that Student's educational placement was changed without Parent's consent. Issue One fails to state when the alleged change of placement occurred, nor does it state the date of any particular Individualized Education Program, IEP at issue. Issue One further refers to an "annual meeting" that was held but fails to state the date of the alleged meeting, the applicable school year when it occurred or generally describe the substance of the meeting.

Issue One asserts that Garden Grove failed to provide Parent with some type of notice. The complaint does not allege what type of notice should have been provided, the event that triggered the requirement of a notice, or when these events occurred.

Issue One is insufficiently pled because it fails to identify the issues and adequate facts about the problem to permit inform Garden Grove to respond and participate in a resolution session and mediation.

Issue Two alleges that Student is working on a goal that is not part of her IEP. It further alleges that Student is taking a class that is not required. Like Issue One, Issue Two fails to identify the school year when these events occurred or identify the relevant IEP.

Finally, Issue Two fails to allege a proposed resolution of the problem. A complaint is required to include proposed resolutions to the problem, to the extent

known and available to the party at the time. (20 U.S.C. §1415(b)(7)(A)(ii)(IV).) Student has failed to meet the statutorily required standard regarding proposed resolutions.

Issue Two is insufficiently pled to inform Garden Grove of the nature of the dispute.

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.

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 shall be permitted to file an amended complaint under title 20 United States Code section 1415(c)(2)(D).
3. 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.
4. If Student fails to timely file an amended complaint, the complaint will be dismissed.

IT IS SO ORDERED.

Jennifer Kelly

Jennifer Kelly

Administrative Law Judge

Office of Administrative Hearings