BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

MENLO PARK CITY SCHOOL DISTRICT.

OAH CASE NUMBER 2023080464

ORDER DETERMINING COMPLAINT INSUFFICIENT

AUGUST 30, 2023

On August 14, 2023, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, called OAH, naming Menlo Park City School District as respondent. On August 29, 2023, Menlo Park 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.] 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.)

DISCUSSION

Student's complaint sets forth 18 pages of narrative with historical information describing Student's educational history from preschool forward. The section entitled "Problem or Complaints raised in this Due Process Proceeding" comprise the final four pages of the narrative without any numbering or clarity as to how many issues or what specific issue(s) is, or are, being alleged. The "problems or complaints" section vaguely

refers to information in the "historical section" without page, paragraph or line reference. The "problems or complaints" section does not assert a violation of the Individuals with Disabilities Education Act, instead asserting that the district did not provide the program Parents wanted, which is not a violation of the IDEA on its face.

Menlo Park asserts that it is unable to determine from the "winding narrative" what IDEA violations are being pled. The concern is well founded. Menlo Park should not have to guess what IDEA violations are being asserted against it.

Student has failed to state claims that give "an awareness and understanding of the issues forming the basis of the complaint." resulting in Menlo Park being unable to prepare for resolution session, mediation, or due process hearing.

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).
3. 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.

4. If Student fails to file a timely amended complaint, the complaint will be dismissed.
5. All dates previously set in this matter are vacated.

IT IS SO ORDERED.

Penelope Pahl

Penelope S. Pahl

Administrative Law Judge

Office of Administrative Hearings