BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

ALISAL UNION SCHOOL DISTRICT.

OAH CASE NUMBER 2022100011

ORDER FINDING DUE PROCESS COMPLAINT INSUFFICIENT

OCTOBER 18, 2022

On September 30, 2022, Student filed a due process hearing request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Alisal Union School District. On October 14, 2022, Alisal Union filed a timely notice of insufficiency as to the complaint.

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.)

Student's complaint is insufficient for three reasons. First, the complaint alleges three numbered claims, which are vaguely titled Procedural Violations, Substantive Violations and Substantive and Procedural violations, rather than clearly stating each

claim. Each claim also appears to have sub-claims buried among the text of each claim, but they are not clearly delineated.

Second, the complaint states at the beginning that any reference to events prior to August 2020 are not an attempt to expand the relevant statute of limitations but are alleged as historical information. However, under the Issues Before the ALJ heading, the complaint states that it seeks to pierce the two-year statute of limitations, alleging that Alisal Union had knowledge of Student's disabilities many years prior to filing.

Third, Issue 1 expressly alleges at paragraph 70 that the claim applies to the entire statutory period of two years prior to the date of the complaint – and beyond. The term and beyond is unquestionably vague, particularly as Issue 1 does not at any point state the dates applicable to that claim. Additionally, Student alleges failure to assess in a period out of the two year period in Paragraph 30, but then first alleges in Paragraph 50 that Child Find obligation violation occurred in March 2022. Issues 2 and 3 similarly do not state the dates of the claims, and paragraph 70 is expressly incorporated into each of those issues. Student's pleading requires the reader to guess as to which factual allegation goes to which issue instead of simply pleading Alisal Union's purported violation, facts that support the purported violation and the applicable date or time period of the violation.

Student insufficiently pled his three claims. The complaint fails to provide Alisal Union with the required problem description and the facts relating to the problem.

Unspecified claims for an unknown period of time are insufficient to provide an awareness and understanding of the issues forming the basis of the complaint.

ORDER

1. Student's complaint is insufficiently pled under section title 20 United States Code 1415(c)(2)(D).
2. Student will be permitted to file an amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II).
3. The amended complaint must comply with the requirements of title 20 U.S.C. section 1415(b)(7)(A)(ii), and must 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.

Alexa Hohensee

Alexa Hohensee
Administrative Law Judge
Office of Administrative Hearings