BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

SAN JUAN UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2022080218

ORDER OF DETERMINATION OF SUFFICIENCY OF DUE PROCESS COMPLAINT

AUGUST 11, 2022

On August 8, 2022, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming San Juan Unified School District. On August 10, 2022, San Juan filed a Notice of Insufficiency and Amended 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

San Juan asserted that Student's complaint is insufficient because it alleges that San Juan failed to provide Student a free appropriate public education, called FAPE, from July 27, 2020, through the present by failing to timely and/or appropriately assess Student in all areas of suspected disability, and by failing to design an appropriate program. San Juan contended that Student was not enrolled in a school within its jurisdiction until August 12, 2021, when Student enrolled to attend Del Campo High School for the 2021-2022 school year. San Juan claimed that prior to enrollment, Student was enrolled in and attended California Montessori Project, a local educational agency of the Yuba County Office of Education, Special Education Local Plan Area, called SELPA. San Juan asserted that the allegations against it while Student was attending California Montessori Project are insufficient because that is not a school within San Juan's SELPA. Juan also argued that Issues One and Two were insufficient because they alleged claims outside of the statute of limitations.

San Juan attached as an exhibit the 2021-2026 Memorandum of Understanding governing special education and related services between California Montessori Project Charter – San Juan Campuses (American River/Carmichael/Orangevale) and Yuba County SELPA. The exhibit established that when a student enrolls in California Montessori Project – San Juan Campuses, the district of residence for special education becomes San Juan Unified School District and the local education agency district of service is California Montessori Project – San Juan.

Student alleged four claims in the complaint, two of which are sufficient and two which are insufficient. The issues are discussed below.

With respect to Issues One and Two, Student's complaint is insufficiently pled. Issue One alleged that San Juan denied Student a FAPE from July 27, 2020, to the present by failing to timely and/or appropriately assess Student in all areas of suspected disability. Student's Issue One alleged claims that arose prior to two years from the date Student filed the complaint on August 8, 2022. Student failed to plead facts or legal theory establishing an exception to or extension of the statute of limitations. As a result, claims arising before August 8, 2020, are insufficiently pled in Student's Issue One.

Issue Two alleged that San Juan denied Student a FAPE from July 27, 2020, to the present by failing to design an appropriate program to meet their individual and unique needs. Similar to the claims in Issue One, Student failed to establish an exception to or extension of the statute of limitations related to the claims in Issue Two. Accordingly, Issue Two is insufficiently pled for claims that arose before August 8, 2020.

Student's Issue Three and Four are sufficiently pled to put San Juan on notice as to the basis of Student's claims. Issue Three alleged San Juan denied Student a FAPE from August 9, 2021, to the present by failing to provide services in conformance with his IEP. Issue Four alleged San Juan denied Student a FAPE by significantly impeding Parent's ability to participate in the decision-making process. Student provided sufficient facts to describe the problems regarding San Juan's provision of FAPE to Student as alleged in Issues Three and Four.

San Juan's request to find the complaint insufficient because it failed to establish how San Juan is responsible for providing Student a FAPE during a period in which San Juan claims Student was not enrolled or attending a school within San Juan's SELPA is denied. Student asserted that he entered the San Juan's jurisdiction in 2011 when he attended kindergarten. The complaint also stated that Parents have resided within San Juan's boundaries at all relevant times. Student's assertion that he attended schools and

resided within San Juan's jurisdiction, and San Juan's assertion that Student did not, is a factual dispute subject to an evidentiary hearing. Accordingly, it is sufficiently pled.

ORDER

1. Issues Three and Four of the complaint are sufficient under title 20 U.S.C. section 1415(b)(7)(A)(ii).
2. Issues One and Two of the complaint are insufficiently pled under title 20 United States Code section 1415(c)(2)(D).
3. Student shall be permitted to file an amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II).
4. 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. The filing of an amended complaint will restart the applicable timelines for a due process hearing.
5. If Student fails to file a timely amended complaint, the hearing shall proceed only on Issues Three and Four, and Issues One and Two, from the time period beginning August 8, 2020, in Student's complaint.

IT IS SO ORDERED.

Marlo Nisperos

Marlo Nisperos
Administrative Law Judge
Office of Administrative Hearings