BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

GROSSMONT UNION HIGH SCHOOL DISTRICT, SAN DIEGO UNIFIED SCHOOL DISTRICT, AND SAN DIEGO COUNTY OFFICE OF EDUCATION.

OAH CASE NUMBER 2021060238

ORDER DETERMINING DUE PROCESS COMPLAINT INSUFFICIENT AS TO SAN DIEGO COUNTY OFFICE OF EDUCATION

JUNE 15, 2021

On June 3, 2021, Student filed a Request for Due Process Hearing, called a complaint, with the Office of Administrative Hearings, called OAH, naming Grossmont Union High School District, San Diego Unified School District, and San Diego County Office of Education. On June 14, 2021, San Diego County filed a Notice of Insufficiency as to the complaint.

A party who receives a due process complaint may challenge the legal sufficiency of the complaint. (20 U.S.C. § 1415(c)(2)(A).) 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) & (B).

A complaint is sufficient if it: (1) describes the problem related to the identification, evaluation, or educational placement of the Student, or the provision of a free appropriate public education to the Student; (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)(6)(A), and (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 insufficiently pled as to San Diego County Office of Education. Issue Three in the complaint alleges that San Diego County denied Student a free appropriate public education by failing to implement Student's individualized education program and failing to provide educational services. However, the complaint does not describe the problem related to the allegations in this issue or include any facts alleging that San Diego County was involved in any decisions related to the identification, evaluation, or educational placement of Student, or the provision of a free appropriate public education to Student. Therefore, the complaint does not put San Diego County on notice of the issues Student alleges against it, and San Diego County does not have sufficient information to prepare for a due process hearing.

ORDER

1. Student's complaint is insufficiently pled under title 20 United States Code, section 1415(b)(7)(A), as to San Diego County Office of Education.
2. Student may 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 United States Code, section 1415(b)(7)(A)(ii), and must 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.
4. If Student fails to file an amended complaint within 14 days from the date of this Order, the complaint will be dismissed as to San Diego County Office of Education.

5. The case will continue as scheduled as to Grossmont Union High School District and San Diego Unified School District.

IT IS SO ORDERED.

Tara Doss

Tara Doss

Administrative Law Judge

Office of Administrative Hearings