BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

ADELANTO ELEMENTARY SCHOOL DISTRICT.

OAH CASE NUMBER 2025060065

ORDER DETERMINING DUE PROCESS COMPLAINT PARTIALLY SUFFICIENT

JUNE 11, 2025

On June 2, 2025, Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Adelanto Elementary School District. On June 6, 2025, Adelanto filed a 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 Board of Educ. v. Benton* (S.D.Ala. 2005) 406 F.Supp.2d 1248, 1259-1260; *Sammons v. Polk County School Board* (M.D.Fla., Oct. 28, 2005, 8:04CV2657T24EAJ) 2005 WL 2850076 [nonpub. opn.]; but cf. *M.S.-G v. Lenape Regional High School Dist. Board 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 46540-46541, 46699.)

Student's request for due process hearing is 125 pages long and includes immense narrative. Many of the stories relayed do not include dates, specific or approximate. While some stories are repeatedly told, they do not make clear the legal claims Student intended to raise based on the facts. Buried on page 15 of the complaint, written in eloquent English, is the assertion that Parents require an interpreter for all proceedings. Similarly, Student's legal claims are a needle in the haystack of the 125-page complaint. Student repeatedly alleges that actions and inactions of Adelanto violated Student's rights under the Individuals with Disabilities Education Act, called the IDEA, section 504 of the Rehabilitation Act of 1973, title II of the Americans with Disabilities Act of 1990, and section 1983 of the Civil Rights Act of 1871, as well as the Family Education Rights and Privacy Act of 1974 and the 14th Amendment to the United States Constitution. But it is very difficult to determine what claims Student asserts arise under the only law over which OAH has jurisdiction – the IDEA.

Student attempted to enumerate some claims and even under those enumerated headings, multiple claims appear to be attempted to be stated. Again, it is not clear which actions and inactions Student contends give rise to liability under the IDEA versus other anti-discrimination, civil rights, and privacy laws. But Student has stated some IDEA claims sufficiently, specified below.

In what Student numbered Problem 1, Student has sufficiently pleaded facts to support a claim of denial of a free appropriate public education, called FAPE. An individualized education program is called an IEP. Student's complaint puts Adelanto on notice as to the basis of Student's claims that Adelanto denied Student a FAPE:

- by failing after May 2, 2023, to offer to assess Student for eligibility for special education and related services based on Student's preschool

teacher's observations of Student's possible need for special education and related services, in violation of Adelanto Elementary's duty to identify, locate, and evaluate Student;

- by failing after Parents' May 12, 2023 verbal request for assessment to assist Parents in requesting in writing that Student be assessed for eligibility for special education and related services; and
- by failing to provide prior written notice in response to Parents' April 17, 2025 request for compensatory education.

As proposed remedies for these denials of FAPE, Student requests in-person compensatory education in speech therapy.

Student's complaint provides Adelanto an awareness and understanding of the problems described above to allow Adelanto to prepare for hearing and to participate in a resolution session and mediation. However, any other claim, or claims, and proposed remedy or remedies, Student attempted to assert in Problem 1 is, or are, insufficiently pleaded.

In what Student numbered Problem 2, Student has sufficiently pleaded facts to support a claim of denial FAPE. Student's complaint puts Adelanto on notice as to the basis of Student's claims that Adelanto denied Student a FAPE by failing after the start of the 2023-2024 school year to offer to assess Student for eligibility for special education and related services based on Student's kindergarten teacher's observations of Student's possible need for special education and related services, in violation of Adelanto Elementary's duty to identify, locate, and evaluate Student.

As proposed remedies for this denial of FAPE, Student requests compensatory psychological counseling outside school and prospective school-based counseling services during the school day.

Student's complaint provides Adelanto an awareness and understanding of the problems described above to allow Adelanto to prepare for hearing and to participate in a resolution session and mediation. However, any other claim, or claims, and proposed remedy or remedies, Student attempted to assert in Problem 2 is, or are, insufficiently pleaded.

In what Student numbered Problem 3, Student has sufficiently pleaded facts to support a claim of denial FAPE. Student's complaint puts Adelanto on notice as to the basis of Student's claims that Adelanto denied Student a FAPE:

- by failing in its initial assessments to assess Student in all areas of suspected disability and causing delay of a determination of Student's eligibility for special education and related services by proposing a second battery of assessments due to Adelanto's failure to initially propose assessments in all areas of suspected disability;
- by failing to conduct appropriate assessments under the initial assessment plan by not having Student's classroom teacher's input;
- by failing to timely complete assessments;
- by failing to have Student's classroom teacher at the April and June 2024 IEP team meetings and not obtaining Parents' written excusals of this required participant; and
- by failing in the IEP developed in April and June 2024 to offer Student extended school year services for summer 2024.

As proposed remedies for these denials of FAPE, Student requests another IEP team meeting with all required participants, compensatory education in speech therapy, compensatory education for lack of extended school year services in summer 2024 and summer 2025, and a corrective action plan in which individual district employees apologize to Student and Parents and the district sets forth the manner in which it will correct systemic violations of the IDEA.

Student's complaint provides Adelanto an awareness and understanding of the problems described above to allow Adelanto to prepare for hearing and to participate in a resolution session and mediation. However, any other claim, or claims, and proposed remedy or remedies, Student attempted to assert in Problem 3 is, or are, insufficiently pleaded.

In what Student numbered Problem 4, Student has sufficiently pleaded facts to support a claim of denial FAPE. Student's complaint puts Adelanto on notice as to the basis of Student's claims that Adelanto denied Student a FAPE:

- by denying Parents' request for a 1:1 aide made at the November 14, 2024 IEP team meeting;
- by denying Parents' written request for a 1:1 aide made on approximately January 8, 2025;
- by failing to timely provide Parents an assessment plan to evaluate Student's need for a 1:1 aide after Parents' request on or about February 5, 2025;
- by failing in the assessment plan dated February 19, 2025 to propose the appropriate type of assessment to determine whether Student required a 1:1 aide; and

- by failing to provide prior written notice in response to Parents' February 28, 2025 request for a Special Circumstances Instructional Assistance assessment and a dyslexia assessment.

As proposed remedies for these denials of FAPE, Student requests a 1:1 behavior aide, a Special Circumstances Instructional Assistance assessment, and an independent educational evaluation for dyslexia.

Student's complaint provides Adelanto an awareness and understanding of the problems described above to allow Adelanto to prepare for hearing and to participate in a resolution session and mediation. However, any other claim, or claims, and proposed remedy or remedies, Student attempted to assert in Problem 4 is, or are, insufficiently pleaded.

In what Student numbered Problem 5, Student has sufficiently pleaded facts to support a claim of denial FAPE. Student's complaint puts Adelanto on notice as to the basis of Student's claims that Adelanto denied Student a FAPE:

- by failing since August 21, 2023, to assess Student's behavior through a functional behavior analysis assessment;
- by failing since the start of the 2023-2024 school year to offer Student a behavior intervention plan;
- by failing in the 2023-2024 school year to address bullying Student experienced at school;
- by failing in the 2024-2025 school year to failure to document and share with Parents incident reports, obstructing meaningful parental participation in educational decisionmaking and the IEP process; and

- by failing to respond to Parents' October 18, 2024 written request for access to Student's complete cumulative file;

As proposed remedies for these denials of FAPE, Student requests a formal written apology and acknowledgement of procedural errors, revisions to Student's education record and IEP regarding bullying and behavioral escalation, and integration of independent evaluation data from licensed private providers into Student's IEP.

Student's complaint provides Adelanto an awareness and understanding of the problems described above to allow Adelanto to prepare for hearing and to participate in a resolution session and mediation. However, any other claim, or claims, and proposed remedy or remedies, Student attempted to assert in Problem 5 is, or are, insufficiently pleaded.

In what Student numbered Problem 6, Student has sufficiently pleaded facts to support a claim of denial FAPE. Student's complaint puts Adelanto on notice as to the basis of Student's claims that Adelanto denied Student a FAPE:

- by failing to provide Parents prior written notice regarding Adelanto's proposal for a second round of assessments in the assessment plan dated on or about April 26, 2024;
- by failing to provide Parents prior written notice regarding Student's classroom teacher's absence from the April 22, 2024 IEP team meeting;
- by failing to provide Parents prior written notice regarding Adelanto's denial of Parents' May 2024 requests for additional assessments;
- by failing to provide Parents prior written notice regarding Adelanto's denial of Parents' June 18, 2024 request for independent educational evaluations; and

- by failing to provide Parents prior written notice regarding Adelanto's denial of Parents' October 8, 17, and 28, 2024 requests for Student's classroom teacher to attend IEP team meetings.

As proposed remedies for these denials of FAPE, Student requests prior written notices, an IEP team meeting to discuss Parents' concerns, unspecified compensatory education, and something unclear related to services with Desert Mountain Children's Services.

Student's complaint provides Adelanto an awareness and understanding of the problems described above to allow Adelanto to prepare for hearing and to participate in a resolution session and mediation. However, any other claim, or claims, and proposed remedy or remedies, Student attempted to assert in Problem 6 is, or are, insufficiently pleaded.

In what Student numbered Problem 7, Student has sufficiently pleaded facts to support a claim of denial FAPE. Student's complaint puts Adelanto on notice as to the basis of Student's claims that Adelanto denied Student a FAPE by failing to conduct appropriate assessments in the areas Adelanto assessed. This claim is in part redundant of a claim Student adequately stated in Problem 3.

As proposed remedies for this denial of FAPE, Student requests independent educational evaluations and revisions to Student's IEP so that it is only based on the results of the independent assessments and not any of Adelanto's assessments.

Student's complaint provides Adelanto an awareness and understanding of the problems described above to allow Adelanto to prepare for hearing and to participate in a resolution session and mediation. However, any other claim, or claims, and proposed

remedy or remedies, Student attempted to assert in Problem 7 is, or are, insufficiently pleaded.

MEDIATOR ASSISTANCE FOR NON-REPRESENTED PARENTS: 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 Parents intend to amend the due process hearing request.

ORDER

1. Problems 1, 2, 3, 4, 5, 6, and 7 of Student's complaint are sufficient under title 20 United States Code section 1415(b)(7)(A)(ii), as defined and limited above.
2. Any parts of Problems 1, 2, 3, 4, 5, 6, and 7 Student attempted to plead that are not described by this Order are insufficiently pleaded under title 20 United States Code section 1415(c)(2)(D).
3. If Student seeks to state any claims beyond those identified as sufficiently pleaded in this Order, Student is permitted to file an amended complaint under title 20 United States Code section 1415(c)(2)(E)(i)(II). Any 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 on which a translation of this Order is served on Parents. Any amended complaint must be retyped or rewritten in its entirety and may not incorporate any part of the original complaint by reference.
4. 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 Problems 1, 2, 3, 4, 5, 6, and 7 of Student's complaint, as defined and limited above.

IT IS SO ORDERED.

Kara Hatfield

Kara Hatfield

Administrative Law Judge

Office of Administrative Hearings