BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

v.

MONTEBELLO UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2025060324

ORDER DETERMINING DUE PROCESS COMPLAINT SUFFICIENT

JUNE 18, 2025

On June 6, 2025, Parent on behalf of Student filed a Due Process Hearing Request, called a complaint, with the Office of Administrative Hearings naming Montebello Unified School District. The Office of Administrative Hearings is called OAH. On June 16, 2025, Montebello Unified 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, called a FAPE;
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 Individuals with Disabilities Education Act, 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.)

Montebello Unified challenges the sufficiency of the complaint regarding its alleged failure to assess Student in speech and language, psychoeducation, and educationally related mental health services. Montebello Unified also contends the compliant is insufficiently plead as to its failure to offer Student appropriate speech and occupational therapy services, and assistive technology devices and services.

Furthermore, Montebello Unified argues the complaint insufficiently describes the problems regarding its alleged failure to provide a program to enable Student to make progress towards goals, predetermining Student's program, and impeding parental participation. Liberally read, the complaint is sufficient as to the challenged issues.

The complaint sufficiently describes the problems about Montebello Unified alleged failure to conduct assessments in speech and language, psychoeducation, and educationally related mental health services. The complaint sufficiently argues why the assessments should have been conducted, to provide Montebello Unified with an understanding of the problems. For example, the complaint claims Montebello Unified has not comprehensively assessed Student's speech and language abilities to identify his expressive and receptive language skills, and to determine if his language development impedes his ability to access his education.

In addition, the complaint sufficiently explains a psychoeducational assessment was necessary to understand Student's cognitive, academic, and emotional functioning, to develop targeted interventions, accommodations, and strategies. Further, the complaint sufficiently explains that an educationally related mental health services

assessment was needed to determine appropriate interventions to support Student's social-emotional and behavioral needs. The complaint provides Montebello Unified with sufficient information to allow it to prepare for the hearing, and to participate in a resolution session involving the alleged failures to assess Student in speech and language, psychoeducation, and educationally related mental health services.

Liberally read, the complaint also sufficiently describes Montebello Unified's alleged failure to offer appropriate speech and occupational therapy services, and assistive technology devices and services. The complaint claims the speech and occupational therapy services provided were insufficient and inadequate. Further, the compliant claims Montebello Unified failed to offer Student access to necessary assistive technology, or training to Student, Parents, and members of Student's individualized education program, called IEP, team in the use of assistive technology. The complaint describes enough information to provide Montebello Unified with an awareness of the problem regarding speech and occupational therapy services, and assistive technology devices and services, to allow Montebello Unified to prepare a defense and to participate in a resolution session.

Furthermore, the complaint sufficiently describes the problems regarding Montebello Unified's alleged failure to offer an appropriate program during the relevant period, to allow Student to meaningfully benefit from his education and to meet his IEP goals. The complaint also sufficiently explains how Montebello Unified allegedly predetermined Student's program during the relevant period by ignoring Parent's concerns about Student's lack of progress and failing to modify his program as needed. The complaint describes enough information about the problems regarding an appropriate program to enable Student to make meaningful progress, predetermination

of his program, and meaningful parental participation to allow Montebello Unified to defend against the claims.

ORDER

1. The complaint is sufficient under title 20 United States Code section 1415(b)(7)(A)(ii).
2. All prehearing conference, and hearing dates in this matter are confirmed.

Rommel P. Cruz

Rommel P. Cruz

Administrative Law Judge

Office of Administrative Hearings