BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

SALINAS UNION HIGH SCHOOL DISTRICT.

OAH CASE NUMBER 2023020749

ORDER FINDING COMPLAINT SUFFICIENTLY PLED

MARCH 10, 2023

On February 22, 2023, Parents on behalf of Student filed a due process hearing request, called a complaint, with the Office of Administrative Hearings, referred to as OAH, naming Salinas Union High School District. On March 9, 2023, Salinas Union timely filed a notice of insufficiency as to Issues 1d, 1f, 1g, 3b, and 3h of Student's 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 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 IDEA and the relative informality of the due process hearings it authorizes, and 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 alleges at Issue 1d that Parents and Salinas Union entered into a settlement agreement requiring an assistive technology assessment that was never done. Student alleges that as a result of the failure to assess him in an area of need he lost educational benefit. Student is not seeking to enforce the agreement, and does not request that Salinas Union be ordered to conduct an assistive technology assessment as required by the agreement. Instead, he alleges Salinas Union's failure denied him a FAPE, and seeks compensatory remedies. Student adequately describes the problem

resulting in a denial of FAPE, includes facts about the problem; and includes a proposed resolution.

At Issue 1f, Student alleges the April 13, 2021 individualized education program, or IEP, was unclear because it referenced a small group "individual studies" class but did not specify which areas of need would be addressed in that class. At Issue 1g, Student alleges the special education and services in the April 13, 2021 IEP were predetermined because Student's areas of need in reading comprehension, executive functioning and social skills were unaddressed, and Salinas Union team members would not discuss extended school year services. Student alleges in various places in the complaint that his educational program was essentially the same year after year, despite Student falling behind his peers academically. Student seeks compensatory services for his denial of FAPE. Student's complaint contains facts that adequately describe the problems at Issues 1f and 1g that allegedly resulted in a denial of FAPE.

Student alleges at Issues 3b and 3h that necessary members of Student's IEP teams did not attend the IEP team meetings described in the complaint. Student alleges that Salinas Union's special education director did not attend one meeting, and that Parent's private assessor was invited to one, but not both, meetings where that assessor's assessment results were reviewed. The complaint states that as a result, one meeting was delayed, and services were determined without the private assessor's input at the other meeting. Student alleges these failures denied Parents important information on a FAPE for Student, and denied Student educational benefit.

Student's complaint at Issues 1d, 1f, 1g, 3b, and 3h, identifies the issues and adequate facts about the problems to permit Salinas Union to respond and participate in a resolution session and mediation.

Therefore, Student's complaint is sufficient.

ORDER

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

IT IS SO ORDERED.

Alexa Hohensee

Alexa Hohensee
Administrative Law Judge
Office of Administrative Hearings