BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENTS ON BEHALF OF STUDENT,

v.

LAMMERSVILLE UNIFIED SCHOOL DISTRICT.

OAH CASE NUMBER 2023060953

ORDER DETERMINING ISSUES 2, 3, 4 AND 5 OF THE COMPLAINT SUFFICIENT

JULY 3, 2023

On June 23, 2023, Parents on behalf of Student filed a due process hearing request, called a complaint, with the Office of Administrative Hearings, naming Lammersville Unified School District, called Lammersville. The office of Administrative Hearings is called OAH.

On June 30, 2023, Lammersville filed a notice of insufficiency as to Issues 2, 3, 4 and 5 of 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:

- 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,
- Includes facts about the problem, and
- 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.)

Here, Student alleges that, after a settlement of prior claims in May 2021, Lammersville funded an independent psychoeducational evaluation of Student, and Parents retained private speech and behavior assessors. He alleges that at individualized education program, or IEP, team meetings in November 2021 and February 2022, Lammersville team members reported that Student had exhibited escalating protest and agitation behaviors during the Fall 2021 semester, but Lammersville did not allow Parent's private assessors to observe Student and did not conduct its own functional behavior assessment or create a behavior intervention plan. Student further alleges that Lammersville was required to reimburse Parents for their private assessments. Student brings five claims, that Lammersville denied him a FAPE, by:

1. Failing to conduct a timely behavior assessment and implement a behavior intervention plan,
2. Prohibiting Parent's private assessors from observing Student's educational placement or interviewing Lammersville staff,
3. Delaying IEP team meeting,
4. Rejecting Parents' request for reimbursement for private assessments, and
5. Violating Student's rights under the ADA, Section 504, and relevant federal and state laws.

As resolutions, Student seeks reimbursement to Parents for educationally related expenses, compensatory education, and training of Lammerville's staff.

The facts alleged in Issues 2, 3,4 and 5 of Student's complaint are sufficient. Lammersville would like more detail and asserts an affirmative defense against several claims as waived in the May 2021 settlement agreement, however, Student's complaint identifies the issues and adequate facts about the problem to permit Lammersville to

respond and participate in a resolution session and mediation. Although this Order finds Issue 5 sufficiently pled, it does not decide if OAH has jurisdiction over Issue 5.

Therefore, Student's statement of Issues 2, 3, 4 and 5 are sufficient.

ORDER

1. Issues 2, 3, 4, and 5 of Student's complaint are sufficient under title 20 U.S.C. section 1415(b)(7)(A)(ii).
2. All mediation, prehearing conference, and hearing dates in this matter are confirmed.

Alexa Hohensee

Alexa Hohensee
Administrative Law Judge
Office of Administrative Hearings